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TAXATION

LOCAL AND IMPERIAL AND LOCAL GOVERNMENT

J. C. GRAHAM
AND
M. D. WARMINGTON

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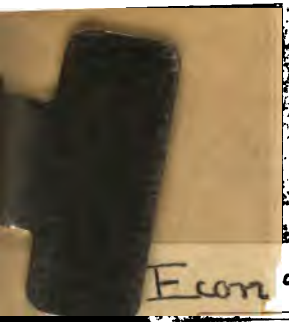

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TAXATION

LOCAL AND IMPERIAL

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LOCAL GOVERNMENT

BY

J. C. GRAHAM

Barrister-at-Law.

THIRD EDITION

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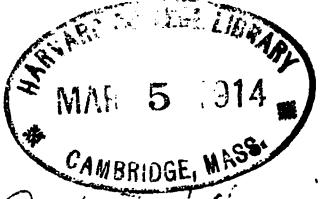

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LOCAL GOVERNMENT.

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LOCAL TAXATION.

In the year ending March 1897, a sum of £37,000,000 was raised by local taxation in the form of rates. This sum was raised by the taxation, or, as it is more usually expressed, by the rating of occupiers of lands and houses by the various rating authorities, such as the Guardians of the Poor, County Councils, Town Councils, District Councils, Local Boards, Metropolitan Vestries, and Highway Authorities; this sum does not include the large sums which are annually paid under the names of gas and water rates, which so-called rates have no more connection with Local Taxation than railway rates.

In the following pages I have endeavoured to examine into the question whether these local rates are paid by the persons who ought to pay them, and also to give a general historical account of the way in which these rates came to be made payable.

Every member of the community contributes directly to Imperial Taxation by a direct payment from himself to the Government under the head of income tax, except those who are exempted by reason of the smallness of their incomes, and every member of the community contributes indirectly to Imperial Taxation who consumes goods such as spirits, tobacco, tea, etc., on which a tax is imposed; and owners of land contribute a comparatively small sum by the payment of the land

tax. So that speaking generally it may be said that everyone contributes to Imperial Taxation, and in an approximate way contributes in proportion to his means. But with respect to Local Taxation the case is a totally different one. Local taxes are paid by one class of persons only, that is to say, the occupiers of real property, that is to say, of lands and houses; and they pay not in proportion to their means, but in proportion to the value of the property which they occupy. It is said by many persons that although it is true that the payment of these rates is actually made by the occupiers in the first instance, yet the burden does not ultimately fall entirely upon them, but is shifted, in obedience to some economic law, on to the shoulders of their landlords, and that the incidence on the occupiers is thus not a real but merely an apparent injustice. Whether this is so or not will be examined later on. But whatever may be the truth of the matter as between them, there can be no question that the occupiers or the owners of *real* property, and they alone, pay the whole sum which is annually raised by Local Taxation; and that the owners of *personal* property, that is to say, of consols, shares in companies, trade profits, etc., no matter how large that property may be, do not pay one farthing towards Local Taxation, unless they also happen to be occupiers of real property, in which case they pay, not because they are owners of personal property nor in proportion to the amount of their personal property, but because they are occupiers, and then only in proportion to the value of the property occupied. In taxation for local purposes, there is therefore no attempt either to tax every member of the community directly, or to tax those who are taxed in proportion to their means.

The best account of the growth of Local Taxation is to be found in a Report made in 1870, by Mr Goschen, when President of the Poor Law Board, to the House of Commons. In that Report, Mr Goschen divided the interval between 1803 and 1870 into three periods.

The first period was from 1803 to 1840, during which the main rates levied were the poor rate, the county rate, the church rate, and the highway rate. During the second period, 1841 to 1851, police rates and borough rates made their appearance; and during the third period, viz., from 1851 to 1869, sanitary rates and town rates, other than borough rates, appeared. Mr Goschen shows that it is these comparatively modern rates which have swollen the total of Local Taxation to its present amount, for, as to the old rates, his figures show that the expenditure on the relief of the poor, for example, which averaged £6,300,000 from 1819 to 1829, averaged £6,500,000 from 1859 to 1869. And the highway rate, which stood at £1,415,000 in 1817, stood at £1,378,000 in 1868.

It is interesting to compare the sums raised by rates in 1868 with those raised in 1897. According to Mr Goschen, p. 35, the whole income of the various local authorities, during the year ending March 1869, amounted, exclusive of loans, to £24,686,506; of this, a sum of £16,223,069 was apparently raised as rates. If we now look at Part VII. of the Local Taxation Accounts for the year ending March 1897, we shall see that these figures are growing rapidly: — The total receipts, other than from loans, of the various local authorities for that year amounted to £66,512,267 (p. 18), and the total expenditure, not defrayed out of loans, amounted to £64,710,459 (p. 53).

Of this sum (£66,512,267), over thirty-seven millions were raised as public rates, as follows (p. 20):—

	£
Poor Law Authorities	9,493,750
County Councils (excluding London)	2,548,533
London County Council	2,203,969
Town Councils as Municipal Authorities	1,990,074
Town Councils as Sanitary Authorities	6,813,653
Urban District Councils, other than Town Councils	3,265,431
Rural District Councils	639,751
Metropolitan Vestries	2,398,631
School Boards	4,571,261
Highway Authorities	1,644,070
Other rates, making together a total of	37,542,016

The balance of the income of the Local Authorities was made up by Treasury subventions, payments out of the Exchequer contribution accounts, tolls, dues, receipts from property, fees, fines, licences, water works, gas works, and certain minor matters.

The following were some of the principal items of expenditure (p. 54):—

	£
Relief of the Poor	7,996,683
Lunatic Asylums	1,950,980
Police	4,825,728
Education	7,236,002
Highways	7,742,285
Loans repaid and interest and Sinking Funds	13,758,833
Salaries and Superannuation Allowances	2,031,768

At page 67 of this book will be found a set of tables taken from the Local Taxation Accounts for 1896-97,

which show the receipts and expenditure under the various heads of the different classes of local authorities; an examination of the Local Taxation Accounts show, among other things, that there is a vast amount of cross accounting among these authorities, and that rates are raised in very large sums under one head and expended on matters which have not the remotest connexion with that head, *e.g.*, the poor rates, and that the system of accounting necessitated by the Local Government Act of 1888 has introduced further and very serious complications, which appear to be wholly unnecessary; so that at the present moment, notwithstanding the excellent form in which the Local Taxation Accounts are published, it is extremely difficult to follow and identify many of the items.

Now, practically speaking, the whole of this sum of £37,542,016 is levied on the occupiers of houses and lands; and I propose in the first place to examine how it came to pass that occupiers alone pay the whole of the local taxes, and why it is that personal property is not now taxed for local purposes.

The Act of Henry VIII., called the Statute of Bridges, which authorised the Justices to levy a rate on the inhabitants of the parish for the repair of bridges, has been spoken of as the first instance of compulsory rating, but it is very doubtful whether this is a correct statement, for the inhabitants of a parish in vestry assembled appear to have had, from time immemorial, a common law right to rate or tax the inhabitants of a parish for any purpose of common benefit to the parish (Toulmin Smith's Parish, 49). The foundation of statutory rating powers is to be found in the early poor law statutes. Prior to the Reformation, the "indigent and miserable were left to the care of the

Church." (Fowle, 21.) From that time down to the year 1601 there was no general organisation for the relief of the poor (Fowle, 55), nor any really compulsory method of raising funds for that purpose. In the year 1601 an Act, 43 Eliz., c. 2, was passed, by which certain persons, viz., the Churchwardens and other persons, were ordered to be appointed in every parish to act as Overseers of the poor, and to these persons was given the power of enforcing payments for the relief of the poor. This Act of Elizabeth is one of very great interest, being the most important of the early poor law statutes, and also the foundation of the present system of rating, and accordingly the first section is set out at some length: it enacted,

"That the Churchwardens of every parish and four, three or two substantial householders there . . . . to be nominated yearly in Easter week . . . . under the hand and seal of two or more Justices . . . . shall be called Overseers of the poor of the same parish: And they . . . . shall take order from time to time . . . . for setting to work of the children of all such whose parents shall not . . . . be thought able to keep and maintain their children: And also for setting to work all such persons . . . . having no means to maintain them, as use no ordinary and daily trade of life to get their living by: And also to raise, weekly or otherwise, *by taxation of every inhabitant*, parson, vicar, and other *and of every occupier* of lands, houses, tithes, impropriate or propriations of tithes, coal mines or saleable underwoods in the said parish, in such competent sum and sums of money as they shall think fit a convenient stock of flax, hemp, wool, thread, iron and other necessary ware and stuff to set the poor on work; And also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind . . . . not able to work . . . . and also for the putting out of such children to be apprentices, to be gathered out of the same parish, *according to the ability of the same parish*. . . . ."

The importance of this Act of Elizabeth, with respect to the levying and collecting of every sort of rate, cannot be overestimated. It necessitated the creation of machinery for collecting poor rates by means of Overseers, and that machinery, as new rates of every variety have from time to time been imposed, has been utilised in collecting those rates; eventually the duties of the Overseers with respect to the relief of the poor have been almost entirely transferred to the Guardians, and the Overseers are now little more than collectors of rates and preparers of lists of voters, &c. It will be observed that according to the words of this statute, which are exceedingly vague on some points, the persons to be taxed were *every inhabitant*, parson, vicar, and other and every occupier of lands, houses, etc. The tax, or rate as it is now called, is at the present date levied exclusively on occupiers, and not upon the inhabitants as such at all. The Act does not give any directions for determining the amount payable by an inhabitant or occupier, but merely states that the amount raised is to be according to the ability of the parish.

This statute, not long after the passing of it, appears, as from its vagueness might have been expected, to have been the subject of discussion in the Law Courts, and the law of rating, as it now stands, is in reality made by the judges, who by their decisions supplemented the deficiencies of the Act. It cannot be said that the judges put any construction on the Act, for there were no provisions to construe; they legislated as judges, and the law as they laid it down is the present law. In the first place it seems to have been decided at a very early date that where land was let, the landlord was not to be rated, but the occupier only. Thus, in a case in 1633 (2 Bulst 354), the reporter says:—

"The judges did both of them agree in this that by the law the occupiers of the land are *onely* to be charged, and this in regard of their possessions *and not the lessor in regard of the rents which he received*: And so they declared that it hath been also thus resolved by all the judges of England: The judges here made their order according to the several resolutions: And this they did thus settle and order for the better directions for the time to come: That they are to make their taxations and assessments well and duly and in equal manner, according to the *visibles estates, real* and *personal*, of such inhabitants within their town, and also to tax and assess the *occupiers* of land within their town onely, *and not the lessors*, with a special charge to them given to be carefull in this in the future."

So that within a period of about thirty years from the passing of the Act, those only who were occupiers and not the landlords nor the inhabitants generally seem to have been saddled with the burden of paying the rates. In 1776, Lord Mansfield said (Cowp. 453):

"In general, the farmer or occupier of land, and not the landlord, is liable to this tax; for it arises by reason of the land in the parish: and the landlord is never assessed for his rent, for that would be a double assessment, as his lessee has paid before."

In 1777, in the King *v.* Andover, Lord Mansfield said:

"Some personal estate may be rateable: But it must be local visible property within the parish."

At this date, Lord Mansfield was in all probability merely following an established practice, and that practice appears to have been that assessments were made on occupiers only, and in respect of the property they occupied, and on the annual value of that property, and that where personal property was rateable it must have been local visible property; and at this date, personal property was so insignificant in amount, com-

pared with real property, and the machinery for levying and collecting rates was so imperfect, that the inconvenience of rating it probably far exceeded the benefit to be derived by rating it.

Nearly two hundred years after the passing of the Act, viz., in 1783, Lord Mansfield delivered a judgment of so much interest, that I have transcribed some extracts from it of considerable length. The case is reported by Caldecott, at page 323. Lord Mansfield said:

"By constant usage (and I know not upon what other ground it is), ability to pay is measured by the local visible property in the parish. . . . . The Court, upon the 43 Eliz., has paid great regard to the construction put upon it by usage; and have often directed enquiries into such usage; and in my apprehension rightly, for many reasons. The words of the statute are very loose and very general, and they may be construed into any latitude, even to make all a man has and all a man gets in any way the measure of his ability; for truly and substantially it certainly is so, but usage has explained it and narrowed it: And I know nothing of any usage that says a man shall pay according to his ability, in the obvious common sense of the word, *i.e.*, all he gets or makes by his abilities. I don't foresee, and I have turned it very much and with great anxiety in my mind, I am not able to foresee where the reasoning of the words '*inhabitants*,' and '*according to their ability*' may carry us. I protest, I don't know where to draw the line: for these are the only words of the statute, and there is nothing in the statute to narrow or qualify them: It will go to everything that makes a man rich."

And the counsel who argued the case said (343):

"It is a question that of late years has been frequently agitated, and has not yet received a final decision whether personal property in general, and that even where the amount is clear and certain, be rateable or not. In many instances it has been adjudged not to be rateable. In some it is true it has been held rateable, but then it has been adjudged to be so, even in these cases upon the ground of usage only."

The rule which the Court of King's Bench uniformly adopted was,

"If personal property has been usually rated in a parish, the Court upon the fact of usage only suggest such rate; and if the usage has been not to rate such property there the rate is not supported."

In 1792 (4 TR 771), it was decided that money was not rateable, and at this time it seems to have been admitted that property of any sort which produced no profit was not rateable. In The King *v.* Mast. (5 TR 155), in 1795, Lord Kenyon said:

"The assessment for the relief of the poor ought to be contrived that each inhabitant should contribute *in proportion to his ability*, which is to be ascertained by his possessions in the parish. Every inhabitant ought to be rated *according to the present value of his estate*, whether it continue of the same value as when he purchased it, or whether the estate be rendered more valuable by the improvements which he has made upon it. *If a person choose to keep his property in money, and the fact of his possessing it be clearly proved, he is rateable for that*; but if he prefer using it in the melioration of an estate or other property, he is rateable for the same in another shape. Suppose a person has a small piece of land in the heart of a town, which is only of small value, and he afterwards build on it, he must he rated to the poor according to its improved value with the building upon the land. In short, in whatever way the owner makes his estate more valuable, he is liable to contribute to the relief of the poor in proportion to that improved estate; and whatever be the proportion of rating in a parish, whether to the full value or otherwise, the rate must be equally made on all persons: there cannot be one medium of rating for one class of persons and another for another class."

In the main points this is a very sound statement of what the law should now be, but it is not quite correct to say that a man's ability to contribute to the relief of the poor is to be ascertained by his possessions in the parish.

It might have been so then, for during those times, practically speaking, all property was real property, and a construction of the Act which threw the burden of taxation on the owners of real property may not have done much injustice, for, practically speaking, it threw it on all owners of all property and on no others. But now there is as much personal as real property in the country.

Early in this century, if not long before that, the rent had come to be the measure of the value of the property for the purposes of local taxation. This rule appears to have been based upon two closely connected fallacies, viz., that the occupier alone was to be rated, and that the annual value to him was to be the measure of his liability. Whereas upon every sound consideration the property should be rated on its actual value, and the occupier should be rated according to the value of his occupation, the other owners being rated as to the excess according to their respective interests. These are the interests which I think are usually spoken of as ground values. By way of example take the case of a property let on a long lease to a tenant. It seems a curious thing that it should have been assumed that the landlord who had let his property at its full value had no local visible property. So far from this being the case, the property still belonged to him subject to his tenant's interest. The landlord was still the owner of the remainder, and that remainder would, if there were only one or two years of the lease to run, approximate to the full value of the property. It was obviously a fundamental error to assume that a landlord parts with his whole interest in the land until the lease expires. He retains an interest which continually grows in value as the lease approaches its end, and although it is true that he, in

fact, derives no *annual* profit from the interest he retains, he might do so by selling his interest, and he certainly owns local visible property of value.

From some cause or other, probably the difficulty of ascertaining the amount of a man's personal property, and probably in part due to the fact that the most valuable sorts of personal property are not visible and may not be within the parish, attempts to rate personal property at last ceased, and by an Act in 1840 (an annual Act which has been continued) it is not lawful to tax any inhabitant in respect of "profits of stock in trade or any other property." This Act is often spoken of as having finally settled the non-liability of personal property to be rated. By custom it had long ceased to be so, and this Act appears merely to have settled that a particular sort of personal property, about which there were doubts, should not be rateable.

Now with respect, firstly, to the rating of personal property, I think that the preceding short history of rating shows conclusively that the practice of exonerating personal property from the payment of rates had been adopted and had become stereotyped long before the Municipal Corporations Acts, the Police Acts, the Sanitary and Education, and the numerous other Acts had been passed which have been the main cause of the prodigious growth of the rates, and that the practice was partly due to a supposed difficulty of taxing personal property and partly to judicial decisions. It certainly had no statutory origin; on the contrary, the early statutes all contemplated the taxation of personal property. And although it may be quite true that the Act of Elizabeth did not contain any provisions by which a tax on such property could have been collected, yet it is equally true that it did contemplate taxing every man

in respect of "everything that makes a man rich," as Lord Mansfield said, and that machinery is now in existence by which it could be taxed, and the best proof of this perhaps is, that, under the well-considered provisions of the Income Tax Acts, an annual income of over £350,000,000, arising from property other than real property, is now taxed for Imperial purposes.

If it is said that such a system should continue, the onus of proof is certainly on those who so think. If they can prove that personal property ought not to be taxed for local purposes, or that it is so in fact, and if they can prove that a tax which falls on one class only—viz., occupiers—is really paid by all classes in fair and equal proportions, then they will make out a case for the continuance of the present system which, *prima facie*, is indefensible.

Now with respect to the propriety and fairness of exonerating personal property from local taxation. The only really substantial difference between the taxation of real and personal property is that while real property can be taxed locally, personal property cannot be so taxed. But this is no reason that it should go untaxed, and after all, Why should it be raised locally? The difficulty is not one of levying the tax, but at most one of apportioning it when raised. The opponents of taxation reform appear to be always assuming as axiomatic truths arguments which really will not bear examination, and the argument that all taxes to be expended locally should be collected locally is one of them. This doctrine has already been seriously encroached upon. Unions of parishes now support the poor from all the parishes comprised in the Union. The metropolitan parishes support the poor of the whole metropolis by contributing to the common fund, and in the year

1896–97 the local rates were subsidised out of the Imperial Treasury to the extent of over 9½ millions (this sum being made up of Exchequer Contribution Account Treasury subventions, and contributions out of the Local Taxation Account) in respect of schools, police, the poor, lunatic asylums, main roads, etc. This amount does not include the amount payable under the Agricultural Rates Act, 1896, which in the next year was over 1½ million pounds. If the local authorities wasted the money they raised by local taxation, there would be some reason for leaving them to raise it locally, but it would be no reason for not taxing personal property at all. In fact it appears to be much nearer the truth to say that those taxes alone should be raised locally which are to be expended on something which is a purely local benefit.

The history of the subject shows as plainly as can be desired that the real reason why personal property was exempted was because there was great difficulty in assessing it. The original fundamental idea was to tax the *man* according to his ability. The later view that it was *property* which was to be taxed, and only that property which was situated locally, and that personal property was not taxable because it was not locally situated, is not based on any Act. And the difficulty of rating personal property, which was a real one when it first arose, cannot be said to be a difficulty any longer. There is no reason whatever why a man drawing an income from personal property should not contribute to the relief of the poor and other matters for which rates are levied. And it seems quite unarguable to say that his liability is made either greater or less because his property lies in one parish and he resides in another.

Again, with respect to the rating of the occupier, I

think it is equally indisputable that the system of charging local rates solely on occupiers of real property originated in much the same way as the exemption of personal property from taxation. It is quite clear that it had no statutory origin. Prior to the modern sanitary and other Acts which have led to the large increase of rates, the total amount of local taxation was comparatively insignificant, and with the exception of that part of it which related to the relief of the poor, which was a burden severely felt in country districts, it was not a hard burden to bear. Now, however, the rates are a very heavy burden, and occupiers naturally ask why they alone should bear the burden; and it is commonly said that the occupiers do not in fact bear the burden, but that their landlords bear it, and that the occupiers do not therefore labour under any injustice. It is said that, notwithstanding that the rate is imposed on the occupier and paid by him in the first instance, it does in fact ultimately fall on the landlord, and is, in substance, a tax on the landlord and not on the occupier. It cannot be denied that the rate should in fairness ultimately fall on both, because both of them derive very considerable advantages from the expenditure of the rates. The occupier enjoys security, health, good roads, etc. But the owner enjoys the same, and in addition he sees his property continually increasing in value. The question is—Does the rate in fact fall on both?

The question is simply this—Out of whose pocket does the tax eventually come? Does the occupier pay it, or does he shift the burden on to his landlord? Let us take a hypothetical case: assume that the whole of London is let from year to year, and that suddenly the rates are raised ten pounds. It has been said over and

over again that the tenant will ask for and obtain a reduction of his rent by this amount. This doctrine appears to me to be opposed to common-sense.

The rent which a tenant is willing to pay is determined by a considerable number of facts, such, for example, as the size of the house, its condition and position, the cost and inconvenience of removal, etc., and the amount of money which he has at his disposal.

The fact that there are, on this assumed state of facts, hundreds of other houses in the market which would tend to keep down the rent is immaterial, because by the same assumption there are hundreds of other occupiers looking for houses which would tend to keep up the rent, so that we may keep to the solitary case of the one house. Now the sole effect of imposing an additional rate of ten pounds is, that if the tenant pays it he will be ten pounds less well off than he was before. All other conditions remain the same. The only material point is that he *is* less well off, the way in which he has become so is immaterial. If tobacco or butcher's meat had gone up in price, he would also have been less well off. But can it be suggested that if butcher's meat went up, rents would go down to the same extent. If that be the true view, then it is the landlord who in part pays the tenant's butcher's bill, and I think there is just as much truth in that as in the statement that he pays the tenant's rates. The effect on the tenant is that he has ten pounds a year less to spend than he had before, and he will distribute his diminished expenditure over the whole of his expenditure; at all events over all those items of expenditure which can be reduced. Probably he will not reduce his various expenditures rateably, but will reduce those which are most easily reduced; and he will

certainly find it more easy to reduce his expenditure on luxuries by ten pounds than to get his landlord to assent to reduce his rent by ten pounds. In all probability, in most cases in towns, the tenant determines the question by saying to himself that it will be much cheaper and more convenient to him in the long run to pay the £10 than to quarrel about it with his landlord, and incur the cost of removing to another place and damaging his trade. Now if the tenant of premises let by the year finds it impossible to shift the burden of the rates on to his landlord, notwithstanding that he has an annual opportunity of trying to do so, how can it be expected that the tenant of premises which he has occupied on lease for many years can do so?

And whatever the answer to that question may be, it is pretty clear that a burden imposed during the currency of the lease cannot fall on the landlord until the termination of the lease, however it may fall subsequently, for there is no adjustment during the currency of a lease. If the rates rise during the last ten years of a lease, the rent does not go down, and the increase of the rates falls exclusively on the occupier. But if the landlord paid the rates, the increase would fall on him, and as he is the person who derives more benefit from the outlay than the tenant, if this is an injustice to one party or the other which is inseparable from the leasehold system, it is a strong argument for shifting the payment of the rates from the occupier, who derives a small benefit, to the landowner, who derives a large one.

The following considerations point unmistakably to the conclusion that a very considerable proportion of the rates goes ultimately into the landlords' pockets. All that portion of the rates which is spent in capital

expenditure—such as forming and improving streets, draining, and supplying appliances for lighting public thoroughfares — goes to the landlords, and they also share alike with the occupiers in the benefits derived from the expenditure of the rates on other matters, such as sanitation, police, education, etc. When the leases terminate and new leases are granted, the landlords re-let their property at higher rents than before, because their property has been improved by this capital expenditure. There are other causes at work tending to raise the rents, but this certainly is one cause, and operates to make the occupiers pay twice over, for they first pay to make the improvements and then they pay again because the improvements have been made. No doubt it is the fact that where people congregate together, as they do in towns, the annual value of property would tend to rise quite independently of capital expenditure, but that is a rise in value not created by the taxation of occupiers, it is a rise due to the state of the market, viz., more buyers than sellers. Another cause of the rise in values created independently of the occupation of the occupier is, that he has voluntarily carried out improvements on the property at his own expense. At the end of the lease he receives no compensation for this expenditure, but, on the contrary, he finds himself compelled to pay a higher rent in consequence of the property having increased in value from all the above and other causes. This is in many cases a gross injustice to the occupier, but it does not arise out of a defective rating law.

Now, looking more particularly at the capital expenditure out of the rates, I find that the total amount raised as loans which remained outstanding at the end of the year 1896–97 amounted to £252,135,574, and

that the local authorities have not done borrowing is proved by the fact that in that year they raised a sum by way of loans exceeding seven millions. I should imagine that the greater portion of this sum of 252 millions has been spent under the capital account, and if so, it may be said that when paid off it will have been handed over as a solid lump sum to the owners of land mostly in towns. This sum does not represent anything like the whole amount raised as loans since borrowing began, because large sums have already been paid off. In the year 1889–90 a sum of over eleven million pounds which had been raised as loans in former years was paid off, so that if no further loans were raised, and the repayment went on at this rate, the whole loan capital would be repaid in eighteen years. It is rather a curious fact that in the Local Taxation Accounts there is no distinction drawn between money expended on capital account and money spent on annual charges, unless it be the account showing the expenditure out of loans, which in the year 1896–97 amounted to the respectable figure of £13,811,812. In a pamphlet published by Mr Moulton, in 1889, on the Taxation of Ground Values, he pointed out most conclusively that a fair distribution of taxation would be effected if the owner, his immediate lessee and all the subsequent lessees, were rated according to their interest in the property. No doubt there might be very great difficulty in ascertaining what these interests are, as they would vary every year and be dependent on a great variety of special circumstances. But, assuming the principle to be sound, it cannot be doubted that some practical system could be devised for putting it into execution. Where, for example, as in London is often the case, land has been let at a ground rent for a long term of years,

and the original lessee has again leased the property to an occupier who pays the rates, those rates should in fairness be divided between three persons, viz., the occupier, the original lessee, and the ground landlord, each according to the present money value of his interest, and in so far as the rates are expended on permanent improvements, they should be paid exclusively by those whose interest in the land is permanent.

There is one objection to altering the incidence of taxation which has frequently been urged: it is, that owners and occupiers have contracted, in an immense number of instances, that the occupier and not the owner should pay the tax, and that the occupier, having obtained the lease on those terms, he ought fairly to be held bound by them. This argument—if used by one of those persons who hold that the tax as now levied is in fact paid by the owner although it is assessed upon the occupier—is not a matter of substance, but mere verbiage, for such a person, who says that the owner now pays the whole tax indirectly, cannot say that there is any unfairness in making him pay the same amount directly. But I think this is a sound objection within certain limits, if properly understood, which deserves consideration. If the two parties at the time the rent was fixed agreed, as a part of that bargain, that the tenant should pay the rates, it would, I think be unjust to the landlord if Parliament were to leave the rent untouched and make the landlord pay the rates. But that concession by no means finishes the argument. The rates are an unascertained sum, and in the case, at all events, of old leases, unascertained both as to amount and as to character. Many leases are now in existence which were granted before any of the heavy modern rates had been imposed or even thought of. And

although the parties in terms agreed as to rates generally, it cannot be argued that they did, in fact, contemplate these modern rates so as to make them a factor in their calculations. What they did in fact do was to make use of an ambiguous term, which shortly expressed and stood for something which both parties contemplated at that time. To stretch the meaning of this term so as to make it include matters which neither party contemplated at the date of the contract, and which consequently were never within the contract, can only be done by adopting the form and rejecting the substance. Those rates which the occupier undertook to pay are those which both parties contemplated at the time of the bargain, and as to those rates he should be held to his bargain; but as to rates which neither party contemplated there is in truth no bargain, and they may be imposed by Parliament on either or both parties without interfering with any contract. As to the future, Parliament might well determine what parties were to pay the rates and in what proportions, and make it illegal for the parties themselves to alter the incidence by any private arrangement between themselves. As to the rates now levied, it would be extremely inconvenient to enter upon an enquiry as to what rates were or were not contemplated by the parties in each individual contract. It is better to recognise the fact that the practical difficulties of an immediate fair adjustment of the rates are almost insuperable in a very large number of cases, and to take care that these difficulties shall not be created in future.

In 1896 an Act was passed entitled The Agricultural Rates Act, 1896 (59 & 60 Vict. c. 16), which has made a difference in the amount of taxes chargeable on agricultural land. For a period of five years, from 25th

March 1897, the occupier [and by sect. 9 'occupier' includes the owner if rated in place of the occupier] of agricultural land will be liable in the case of every rate to which this Act applies to pay one-half only of the rate in the £ payable in respect of buildings and like property. There is an exception of cases where, under existing Acts, the occupier already pays less than half. The rates to which the Act applies are any rates made during the continuance of the Act, the proceeds of which are applicable to public local purposes, and which are leviable on the basis of an assessment in respect of the yearly value of property, and include any sum which, although obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as above defined.

The deficiency arising from this remission of half the rates is to be paid to the various authorities, called the spending authorities, by the Commissioners of Inland Revenue out of the proceeds of the estate duty derived in England out of personal property. This money is not paid directly to the spending authorities, but is paid to the Local Taxation Account and distributed in shares which were determined by the Local Government Board in accordance with certain directions in the Act. This Act is somewhat in the nature of an experiment. It was only passed for five years; the amount to be paid to each spending authority under the Act was fixed once for all during its continuance, and amounted roughly to half the amount raised on agricultural land during the year last before the passing of the Act. There is no provision for varying the amount of grant paid from year to year so that those places where there was a high rate in 1895 will get a much greater relief than those having a low

rate at that time. A list of the spending authorities with the amounts they receive will be found below. It will be noticed that parish councils and overseers receive no share of the grant, although their expenses must naturally come out of a rate levied on agricultural land. The definition of agricultural land in this Act is worth quoting. It is as follows: "Agricultural land" means any land used as arable, meadow, or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards or allotments, but does not include land occupied together with a house as a park, gardens, other than as aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse."

A Return has been made under this Act showing the rateable value of each union and parish on the 20th July 1896, and distinguishing the rateable value of agricultural land from that of buildings and other hereditaments not being agricultural land. The total rateable value of property liable to be rated to the Poor Rate in England and Wales is returned as follows:—

	£
Agricultural land as defined by this Act	24,565,058
Buildings and other hereditaments not being agricultural land . .	140,847,208
Total Rateable value .	£165,412,256

The amount of the 'deficiency' is returned at £1,332,512, and the amount certified by the Local Government Board as the share of the Annual Grant payable to each of the spending authorities defined in the Schedule to the Act is—

	£	s.	d.
County Councils . . .	329,199	1	8
Councils of Boroughs . .	18,121	3	4
„ Urban Districts other than Boroughs .	5,366	5	8
„ Rural Districts .	327,091	3	10
Boards of Guardians . . .	506,059	7	0
Receiver, Metropolitan Police District	4,389	14	8
School Boards	107,347	3	8
Highway Boards . . .	16,368	7	0
Surveyors of Highways . .	18,570	5	0
Total of England and Wales	£1,332,512	11	10

From this it appears that the average rates for all local purposes levied in 1896 on agricultural land amount to 2s. 2d. in the £, and one-half of this will, for five years, be paid out of Imperial funds.

IMPERIAL TAXATION.

THE subject of Local Taxation is very closely connected with that of Imperial Taxation, and it has often been said that the injustice of taxing real property alone for the purposes of Local Taxation is, to a great extent, remedied by the incidence of Imperial Taxation, so that, substantially speaking, real and personal property are equally taxed one way or the other.

At the present time annual grants, under one head or another, are made out of the Imperial Exchequer to the local authorities; and as personal property contributes to the Imperial Exchequer, so in a slight measure it contributes to the local funds.

It will be seen from the Local Taxation Accounts of the year 1887–88 (Part VII., p. xxxix) that the amount paid by the Treasury to those authorities (including the Metropolis) in the year 1887–88 was £4,268,222, and that the contributions have steadily grown until the amount paid in 1896–97 was £8,893,938. Many objections have been raised to these contributions from the Imperial Exchequer. But it does not seem very obvious that all local expenditure should be met out of a revenue raised locally; on the contrary, there seem to be good reasons for the opposite view. Take, for example, the expenditure on the police, education, reformatories, the poor, etc. These are all matters of

national importance, and the annual expenditure under these heads forms a very large proportion of the total expenditure of the local authorities, as the following Table shows.

In the year ending March 1897 the total expenditure of all local authorities, so far as it was not defrayed out of loans, amounted to £64,710,459. This sum was made up in part of the following items:—

	£
Relief of the Poor	7,996,683
Lunatics and Lunatic Asylums	1,950,980
Police	4,825,728
Prosecutions	206,815
Education (including Reformatories)	7,466,758
	£22,446,964

The other main items were of a local character, as follows:—

	£
Highways	7,742,285
Gas Works	3,753,205
Public Lighting	1,215,616
Water Works	1,192,130
Sewerage	1,434,306
Hospitals	448,264
Harbours, Piers, Docks, etc.	1,614,588
Other Public Works	3,587,911
Payments in respect of Loans	13,758,833
Pleasure Grounds, Libraries, Baths, etc.	1,054,703
Salaries	2,031,768
Private Improvement Works	810,811
	£38,644,420

Whether the statement that real and personal property are equally taxed, both systems of taxation being considered, will bear the test of figures will be examined in the following pages. Fortunately for this purpose

there exist two very valuable documents of comparatively modern date, viz., the 27th Report of the Commissioners of Her Majesty's Inland Revenue for the year ending 31st March 1884, and a Return[1] made by the Treasury to the House of Commons in 1885, at the suggestion of Mr (now Sir Richard) Paget. This Return was made for the purpose of ascertaining the amount of Imperial Taxation exclusively borne by real and by realised personal property respectively in the year 1883–4. There are more recent Reports of the Commissioners, but I have taken the one which covers the period treated by Sir Richard Paget's Return.

Now taking Sir Richard Paget's Return first, it appears that the capitalised value of real and personal property in the year 1883–4 was as follows :—

	£
Total capital value of real property	3,778,437,000
,, ,, personal ,,	5,632,821,000

This total value of personal property includes Indian, Colonial, and foreign government funds, foreign and Colonial securities, railways out of the United Kingdom, and foreign investments not in Schedules C or D. During the last ten years the value of personal property must have very largely increased. This Return did not purport to deal with indirect taxes, such as taxes on consumption, general stamp duties and licences, but with the direct taxes only, viz., the Income Tax, the Inhabited House Duty, the Land Tax, and the Death Duties, and it is with these direct taxes only that I propose to deal. A very careful examination appears to have been made by the persons who prepared the Return, for the purpose of ascertaining the proportions of these direct taxes

[1] No. 345. P. S. King & Son. 6d.

which fell respectively on real and personal property, and the following figures are given on page 6 of the Return:—

	Falling on		
	Real.	Personal.	Not on property.
Income Tax—	£	£	£
Schedule A . .	3,657,401	Nil.	Nil.
„ B . .	Nil.	295,097	Nil.
„ C . .	Nil.	850,604	Nil.
„ D[1] . .	152,146	2,701,490	2,399,138
„ E . .	Nil.	Nil.	614,761
	3,809,547	3,847,191	3,013,899

The Return goes on to say that—

Probate duty falls mainly on personal property.

Legacy duty falls mainly on personal property.

Succession duty falls mainly on real property.

Land tax falls entirely on real property.

Inhabited house duty falls entirely on real property.

The Return does not state what these duties amounted to: some very valuable figures can, however, be obtained from the 27th Report before referred to, where they are given on pages 20 and 3, as follows:—

	£
Probate, Inventory, and Account Duty	4,063,011
Legacy Duty	2,496,538
Succession Duty	839,279
Land Tax	1,061,913
Inhabited House Duty . . .	1,837,310

These figures, together with those taken from Sir Richard Paget's Return, make it possible to construct an

[1] Trades, Professions, Public Companies, Quarries, Mines, &c.

approximately accurate Table of the incidence of direct Imperial Taxation. It is only approximately accurate because there is no apportionment of the probate, legacy, and succession duties; and consequently I have classed the whole of the probate and legacy duties as a tax on personal property, and the whole of the succession duty as a tax on real property. The Table then stands as follows:—

	Imperial Taxation falling		
	On real property.	On personal property.	Not on property.
Income Tax—	£	£	£
Schedules A, B, C, D, E. .	3,809,547	3,847,191	3,013,899
Probate . .	—	4,063,011	—
Legacy . . .	—	2,496,538	—
Succession . .	839,279	—	—
Land Tax . .	1,061,913	—	—
Inhabited House Duty . .	1,837,310	—	—
	7,548,049	10,406,740	3,013,899

From this it appears that real property, with a capital value of £3,778,487,000, was taxed to the amount of £7,548,049, and that personal property, with a capital value of £5,632,821,000, was taxed to the amount of £10,406,740, the proportions of capital value to tax paid being, for real property as 1000 to 2, and for personal property 1000 to 1·85.

The preceding gives a ratio between *capital* value and the amount paid as taxes. It is easy to make a comparison between the *annual* values and the amount paid as taxes.

In Sir R. Paget's Return the income from all kinds of real property are given, and when added together they reach a total of £200,648,000. The Return is not so complete as regards the income from personal property. That income was returned at £248,653,000, but that sum did not include the income from the following matters:—

	Capital value £
Farming stock and implements .	300,000,000
Funded and Unfunded Debt, Metropolitan and Municipal Stocks .	759,573,000
Movable Property, not yielding income, *e.g.*, furniture of houses, works of art, etc. . . .	1,000,000,000
	£2,059,573,000

If, as a rough estimate, one twenty-fifth of this capital value be estimated as the annual value, and I think it cannot possibly be estimated at less than this, the income from those sources becomes about £82,000,000. And if this sum be added to £248,653,000, the total income of personal property becomes £330,653,000 as against £200,648,000 for real property, and the tax paid on personal property being £10,406,740, and on real property £7,548,049, the ratio of income to taxes in respect of personal property becomes 1000 to 31·6, and for real property as 1000 to 26·5.

The ratios of values to taxes of real and personal property so far as Imperial Taxation is concerned are therefore as follows :—

Ratio of capital value of real property to tax	1000 to 2.
„ „ „ personal „ „	1000 to 1·85.
Ratio of annual income of real property to tax	1000 to 26·5.
„ „ „ personal „ „	1000 to 31·6.

Local Taxation falls on real property, but as I have not the figures for 1884, I have taken those for 1885–86, given in Part VII. of the Local Taxation Accounts for 1888–90, page 5, where it is stated that in 1885–6 the amount raised by public rates was £26,142,891. If we assume a round figure of £25,000,000 for the year 1883–84, and add that to £7,548,049, we get a total of £32,548,049, which is the aggregate amount of Imperial and Local Taxation borne by real property, as against £10,406,740 borne by personal property.

In other words, if the above calculations are correct, real property is taxed at about three times the rate of personal property, and the defects of Local Taxation are not remedied by the incidence of Imperial Taxation.

In 1884 it must not be forgotten that the land tax had been redeemed to the extent of £853,466 by the landowners, and although the land has no doubt in many cases changed hands, the purchasers have paid more for the land by reason of the tax having been extinguished, and therefore that sum may be looked upon as a continuing charge on the land for this purpose, and increases the amount paid by way of taxation on real property.

It is worth noting that an estimated capital value of £1,000,000,000, being the capital value of moveable personal property which does not yield any income, goes absolutely untaxed. That is to say, 18 per cent. of the entire capital value of personalty goes untaxed, both for Imperial and local purposes. On what ground the persons who own this sort of property, which would be valueless to them except for the protection they obtain from a settled government, should not pay for that protection I am unable to say.

In America, taxation is based on capital value and not on income, and there such property is taxed, and no

great difficulty appears to have been met in assessing the tax (see the Report on the Income Tax of 1852). The argument that such property ought not to be taxed, because it is impossible to ascertain its value, is absolutely untenable. It is quite as easy (and possibly a good deal more so) to ascertain the value of such property as it is to ascertain the amount of a man's profits under the schedules for income tax purposes, or to ascertain whether a man is telling the truth when he claims exemption from income tax on the ground that his income falls below £160. The real fact is that this form of property has gone untaxed because it yields no cash income, a clear proof, if one were needed, that to measure the taxibility of property by the income it produces is to measure it unfairly. The most substantial objection to the Imperial Taxation lies in the way in which the taxes fall on individuals rather than with respect to the character of the property in respect of which the taxes are assessed. This will be more clearly brought out in the following observations on the Land Tax, the Inhabited House Duty, and the Income Tax.

THE LAND TAX.

This tax is a charge upon the owner of real property, and if the occupier pays it in the first instance he is entitled to deduct it from his rent. This tax does not exist in Ireland.

The history of this tax is a very peculiar one, and the following sketch is to a very large extent taken from the most excellent chapter on the land tax contained in the 28th Report of the Commissioners of Inland Revenue published in 1885. The tax, which was formerly regarded as the most productive of all the resources of the State,

appears to have been levied from ancient times in a variety of ways and under various names down to the year 1692, in the reign of William and Mary, when an Act was passed which imposed the tax in a definite specific form.

The terms of the Act are as follows, sec. 2:—

"That every person, body politic and corporate, etc., having *any estate in ready monies, or in any debts owing to them, or having any estate in goods, wares, merchandise, or other chattels, or personal estate whatsoever* within this realm or without, shall yield and pay unto their Majesties four shillings in the pound according to the *true yearly value thereof*; that is to say, for every hundred pounds of such ready money and debts, and for every hundred pounds worth of such goods, wares, etc., or other personal estate, the sum of four and twenty shillings."

This assumed the true yearly value of £100 to be £6.

The 3rd section imposed a duty of four shillings in the pound upon *profits and salaries of persons holding offices, etc.*

And the 4th section was as follows:—

"And to the end a further aid and supply for their Majesties occasions may be raised by a charge upon all lands, tenements, and hereditaments, with as much equality and indifferency as is possible by an equal pound rate of four shillings for every twenty shillings of the true yearly value: be it enacted that all manors, messuages, lands, and tenements, and all quarries, mines, etc., tithes, tolls, etc., and all hereditaments, of what nature soever they be, shall be charged with the sum of four shillings for every twenty shillings of the *full yearly value.*"

From these sections it appears that the tax now known as the land tax was originally a tax on almost every variety of property, on all personal estate whatsoever, on profits and salaries of persons holding offices, and on all hereditaments.

About 1692 it was determined that a new valuation of all landed property should be made, and according to that valuation a rate of one shilling in the pound would have produced a sum of about half a million. The tax appears, however, to have been paid very irregularly. The assessments were made in such a way that they did not rise in proportion to the rise of value in the land, but went on constantly sinking, till at length the rate was less than twopence in the pound; and in 1697 the Legislature fixed a certain sum, viz., £1,484,015, as a charge upon England and Wales, and specified what sums were to be contributed by each county, city, and place named in the Act, so as to make up that total sum.

From 1692 to 1797, the Act imposing the tax was renewed annually at rates varying from one to four shillings per pound of annual value, and eventually, in 1797, an Act was passed (38 Geo. III. 5) which fixed the amounts to be paid in the following manner:—By Section 2, the total sum to be raised was fixed at £1,989,673. It was to be raised in the various counties, cities, boroughs, towns, and places named in the Act, the sum to be paid by each of such places being specified.

By Section 3 it was enacted,

"That towards raising the said several and respective sums of money hereby charged on the respective Counties Cities Boroughs Towns and other places . . . . Every Person Bodies Politic and Corporate Guilds and Fraternities having any estate in ready money or in any debts whatsoever or having *any* estate in goods wares merchandizes or other chattels or *personal estate whatsoever* shall yield and pay the sum of four shillings in the pound according to the yearly value thereof: And any Person or Commissioner having using or exercising any Public Office or employment of Profit

shall towards raising the said respective sums before in this Act charged upon the respective Counties Cities Boroughs Towns and other Places yield and pay the sum of four shillings for every twenty shillings which he or they receive in one year."

In the following year (1798) Parliament relieved itself from the necessity of passing an Act every spring (38 Geo. III. 60), and the land tax fixed at £1,989,673 by the Act of 1797 was made a permanent one, and those on whom it fell were authorised to redeem it on certain terms, and from that day down to the present time a land tax of £1,989,673 purports to have been levied annually (subject to the amounts from time to time redeemed) on the same lands as those on which it was imposed in 1797, without any regard whatever being paid to the prodigious changes in the value of those lands.

It was by the Act of 1797 that the land tax was imposed precisely in the form which has been preserved down to the present day. And the valuation of the taxable property made in 1692 is the valuation in force at this present moment. Each parish is now charged with precisely the same amount of land tax as was imposed upon it in 1797, except in so far as the tax has been redeemed, and that amount was based upon a valuation made in 1692. And it is payable whether the property be occupied or not, and, as mentioned before, it is a charge on the owner and not on the occupier.

When this tax was first imposed in a definite form, viz., in 1692, it was intended to be, and was in fact, an income tax, and at the time it was imposed it was regarded as the most productive of all the resources of the State. And it was intended to fall as much on

personal property as on real property; and indeed it appears as if the intention in the Acts of 1692, 1697, and 1797 had been that the tax should fall primarily on personal property, *and that it should fall on realty only in case the proceeds of personalty should be insufficient.* The Acts contained elaborate provisions for raising the tax on personalty; yet at the present day the tax falls, and for many years past has fallen, exclusively on real property.

So far back as Pitt's time the tax on personalty had dwindled practically to nothing. In 1823 the tax at 1 per cent. on the capital value of the entire personal property in Great Britain was returned at the ludicrous figure of £5416, 10s. And on this point the Commissioners of Inland Revenue in their 28th Report observe:

"It seems almost incredible that year after year an Act should have been passed containing the most minute directions for the assessment of personal estate, that year after year assessors should have been sworn to carry those directions into effect; and yet that nothing which could be called an assessment should have been made. If, indeed, there had been no return at all under this head, it would have been less startling than that there should be such a return as that for 1823."

This tax, in so far as it fell on personal property generally, was repealed in 1833, and so far as it fell on salaries and profits from offices, it was repealed in 1876. It therefore now falls on real estate exclusively.

It is a fixed charge, and therefore the lands on which towns are built, which must have increased in value enormously since the tax was imposed, are not now taxed as they should be on their improved value, but on their original value. And thus the tax falls with undue severity on the agricultural landowner, whose property is diminishing in value, while the town landlord sees

his property enormously increasing in value without any addition to his taxation.

It is exceedingly difficult at the present day to ascertain what sums are now really paid under the head of land tax. Some of the tax so far as it fell on land has been redeemed; and the two returns or papers, viz., House of Commons, 316 of 1844 and 625 of 1849, which throw most light on the subject, are out of print and extremely rare.

One fact, however, is beyond dispute, that the taxes now paid by various places bear no proportion whatever to present value of either land, or land and houses in those places.

In order to illustrate this latter point I have taken the amounts made payable by the statute for certain places. The instances might be multiplied indefinitely. They are as follows:—

	£
The Town and Liberty of Sandwich .	991
,, ,, of Lydd	769
The County of Lancaster . . .	20,989
The Borough of Leicester . . .	639
The City of London	123,399
,, ,, Westminster . . .	63,092
The rest of the County of Middlesex .	107,602

These figures show very conclusively that the land tax is not now levied in any reasonable proportion to the present value of the lands. But it must not be forgotten that the places mentioned in the Act of 1797 are not always what we now commonly understand as being comprised in those places. Take for example Westminster and Sandwich. Through the kindness of Mr Browne, of the Inland Revenue Board, I am able to give the following Table, which shows what places were included by the Act of 1797 in Westminster and Sandwich,

and the amounts to which they were assessed in 1798. I cannot say what sums are now paid by these various parishes. It will be noticed that the totals given by the two Tables do not agree accurately.

Quota of Land Tax assessed on each parish for the year 1798:—

WESTMINSTER.

Division.	Parish.	Amount. £	s.	d.
Walbrook.	St Clement Danes and Savoy and St Mary-le-Strand	3,205	3	6
Duchy Liberty.	Royal Middle Church	2,725	3	9
St Martin's-in-the-Fields	Charing Cross	1,130	0	0
	Spur Alley	820	0	0
	Exchange	850	0	0
	Strand	700	0	0
	Drury Lane	600	0	0
	Long Acre	650	0	0
	New Street	830	0	0
	Bedfordbury	834	14	5
	Suffolk Street	870	0	0
St George, Hanover Square	Dover Street Ward	2,130	0	0
	Conduit Street Ward	2,010	0	0
	Grosvenor Street Ward	2,050	0	0
	Brook Street Ward	2,180	0	0
	The Out Ward	3,432	1	6
St Margaret	King Street, West Ward	1,258	8	0
	King Street, North Ward	1,587	18	0
	Petty France & Knightsbridge	635	17	6
St John's	Millbank & St Peter Divisions	1,054	13	0
	St Anne	5,666	8	0
St James'	Pall Mall	1,620	2	0
	St James's Street	1,700	0	0
	Portugal Street	2,800	0	0
	King Street	1,700	0	0
	Rupert Street	1,340	0	0
	Windmill Street	1,113	0	0
	St James's Market	900	0	0
St Paul, Covent Garden	West Division	2,420	6	0
	East Division	2,420	6	0
Palaces of	Whitehall and St James	1,482	2	0
	Total Westminster	£52,716	3	8

SANDWICH.

Division.	Parish.	Amount.
		£ s. d.
Sandwich	Deal	336 13 0
	Ramsgate	136 1 8
	St Clement	60 7 10
	St Peter	52 19 8
	St Mary	48 14 8
	Walmer	84 13 4
	Sarr	96 0 0
	Total Sandwich	£815 10 2

It is interesting to look at the value of lands and houses on lands respectively as they were in 1883–84, as appears from the 28th Report of the Commissioners of Her Majesty's Inland Revenue, pp. 117 and 118. Take for example the Metropolis, of which the returns are kept separate from the rest of the country. The *lands* in the Metropolis in that year were assessed under Schedule A for the purposes of income tax at a gross annual value of £115,908, and under Schedule B (occupation) at a gross annual value of £110,970. *The tenements*, hereditaments and heritages in the Metropolis were assessed under Schedule A at a gross annual value of £32,725,861.

It needs no argument to show that the gross annual value of 'lands' in the Metropolis is far in excess of £115,908. And it is very difficult to understand what the word 'lands' can mean in such a connection, unless it be assumed that the value of land with a house on it is to be found entirely in the house and not in the land on which the house stands. Mr Sydney Webb and Mr William Saunders recently estimated the annual value of the land in the Metropolis, apart from the

building on it, at about one-third of the entire rateable value. On looking at Table LXVIII. of the 41st Report of the Commissioners of Inland Revenue, it will be found the gross assessment of lands and houses in the Metropolis for the purpose of collecting income tax was, in 1896–97, £39,568,167, and the net assessment £33,019,528.

It appears to me that a very large proportion of the land tax is now paid by the agricultural landowner, whereas in justice by far the larger portion of it should be paid by town landlords.

The terms on which this tax might be redeemed were altered in 1853 so as to enable landlords to redeem on more favourable terms than formerly by 17½ per cent., notwithstanding that a considerable amount of the land tax had already been redeemed on the old terms. It seems worthy of consideration whether the terms might not now be made so much more favourable, at all events to agricultural landowners, as to induce them all to redeem at once and so get rid of an unjust tax, and an unnecessary complication of the general system of taxation.

If there are objections to such a course, then at all events put all landowners on the same footing and make the tax bear some reasonable proportion to the present value of the land. Take for example the average ratio of tax to value of land in agricultural districts, and impose a tax on town landlords in the same ratio.

If it has been fair to tax country landlords in the past at this rate, it cannot be argued that it is unjust to tax the much more prosperous class of town landlords at the same rate in the future—and such a tax would be a productive one.

Some alterations were made as regards land tax by the Finance Act of 1896. By the Land Tax Redemption

Act of 1802 all lands in a parish were subject to a new assessment yearly, and if the rate of 4s. in the £ on the annual value were exceeded, the land tax was to be subject to abatement. By sec. 31 of the Finance Act, 1896, the amount of land tax assessed against any parish for land tax is not to exceed the amount produced by a rate of 1s. in the £ on the annual value of the land in the parish, so that the land tax, which in certain agricultural counties had risen to a high rate, cannot now be higher than 1s. in the £ on the annual value of any land. It was estimated that an amount of £81,311 of land tax was remitted in the year ending March 1898 under this section. And by section 31 of the Finance Act of 1898, landowners of land subject to land tax whose income is below £160 per annum may have the land tax charged on their land remitted, and if the landowner's income is below £400 per annum, then half the land tax is to be remitted.

The total amount of the land tax redeemed up to 1892 was £874,750, and the redemption has taken place for the last thirty years at about the rate of £3000 a year, so that at this rate it will take 350 years to redeem the remainder of it. The net quota of land tax in 1898 was £1,011,816.

In the great majority of parishes it is unredeemed and for the last ninety years has been regarded as a fixed charge upon the lands, subject to which they have been bought and sold many times over. And one of the really funny things recently said of this tax by a great financial authority was, that it was not a tax at all, but a burden of ancient origin which was so firmly attached to the land that the landowners ought not to complain of it.

The terms of redemption have been fixed by the

Finance Act, 1896, at thirty times the amount of the tax last assessed. This enactment seems to have been favourably received by landlords, for whereas the land tax had been redeemed to the extent of about £2500 annually for many years past, at a cost of a little over £60,000, in the year ending March 1897 £4074 of tax was redeemed at a cost of £129,090, and in the year ending March 1898 £9174 of tax was redeemed at a cost of £201,176. There are also other provisions in regard to redemption, allowing a certificate to be granted giving a charge on the land redeemed for an annual sum equal to the tax. And if the assessment is less than a rate of 1d. in the £, then 1d. in the £ is to be raised and the surplus is to be applied in redemption of the tax.

THE INHABITED HOUSE DUTY.

The tax on inhabited houses was first imposed by Lord North, in 1796, during the American War. It was imposed on the occupier and not on the landlord, in respect of the full and just yearly rent which the dwelling-house with its offices was worth to let, at rates which increased with the rent. This tax does not exist in Ireland.

The following history of this tax is taken mainly from Mr Dowell's book on taxes, and from that very admirable document, the 28th Report of the Commissioners of Inland Revenue, previously referred to.

From 1692 to 1834, when it was temporarily repealed, the tax was assessed at various rates. In 1851 the duty on windows was repealed, and the house duty was again imposed by 14 & 15 Vict. 36, which defined the classes of property in respect of which the tax was to be assessed in the following manner:—

"For every inhabited dwelling-house, which, with the household and other offices, yards, and gardens therewith occupied and charged, is or shall be worth the rent of twenty pounds or upwards by the year:—

"Where any such dwelling-house shall be occupied by any person in trade who shall expose to sale and sell any goods, wares or merchandise, in any shop or warehouse being part of the same dwelling-house, and in the front and on the ground or basement story thereof;

"And also where any such dwelling-house shall be occupied by any person who shall be duly licensed by the laws in force to sell therein, by retail, beer, ale, wine, or other liquors, although the room or rooms thereof in which any such liquors shall be exposed to sale, sold, drunk, or consumed shall not be such shop or warehouse as aforesaid;

"And also where any such dwelling-house shall be a farm-house occupied by a tenant or farm servant and bona fide used for the purposes of husbandry only;

there shall be charged for every twenty shillings of such annual value of any such dwelling-house the sum of sixpence.

"And where any such dwelling-house shall not be occupied and used for any such purpose, and in manner aforesaid, there shall be charged for every twenty shillings of such annual value thereof the sum of ninepence."

The uniform sixpenny rate so made payable has been altered by the Customs and Inland Revenue Act of 1890 (53 Vict. 8, Sec. 25) to 2d. for houses of which the annual value does not exceed £40, and to 4d. for houses between £40 and £60, leaving the rate for houses above £60 at 6d.

And the uniform rate of 9d. has been altered by the same Act to 3d. for houses of which the annual value does not exceed £40, and to 6d. for houses between £40 and £60, leaving it for houses above £60 at 9d.

The effect of the various Acts relating to this duty is

that the following houses are exempted from paying the tax, viz., houses under £20, palaces and houses belonging to Her Majesty, hospitals, poorhouses, lunatic asylums, infirmaries, dispensaries, convalescent homes, charity schools, and houses occupied solely for the purpose of carrying on any trade or profession.

Taking the figures for 1896–97 from the 41st Report of the Commissioners of Her Majesty's Inland Revenue, page 89, it appears that the total annual value of houses in England, including the Metropolis, charged and not charged to inhabited house duty was £155,490,422. The proportion of that annual value which went untaxed was £83,346,258, which was made up as follows:—

	£	£
1. Houses under £20.		
Under £10 . .	19,712,805	
Between £10 and £15	15,650,838	
,, £15 ,, £20	11,177,878	
		46,541,521
2. Royal houses and hospitals, schools and houses for the relief of the poor		2,430,428
3. Messuages and tenements not used as dwelling-houses, including artisans' dwellings, £370,400 . .		34,374,309
Total not charged . .		£83,346,258

Thus leaving an annual value, which is taxed, of £72,144,164, made up as follows:—

		£
Shops . .	at 2d., 4d., or 6d., according to value	13,421,284
Public houses, Hotels, etc. .		7,202,488
Farmhouses .		776,093
Lodging houses		1,220,000
Dwelling houses at 3d., 6d., or 9d. .		49,524,299
Total charged . .		£72,144,164

It is apparent that the houses on which this tax falls are selected in the most arbitrary manner. Large classes of buildings are completely exempt, and the tax falls on those houses which are taxed in a most unfair manner. Take first the exemption of houses under the annual value of £20. The annual value of dwelling-houses in England the rentals of which do not exceed £20, and which are consequently exempt from taxation, is, according to the above Table, £46,541,521. Now it is very material to enquire who are the persons benefited by this immense exemption.

On page 88 of the same report will be found a return of houses referred to above, from which it appears that the total number of houses under £20, and consequently not charged, in the Metropolis was 136,940, and the number, in the Metropolis, of houses which were charged was 436,571. I am not aware of any return which shows how many of these 136,940 houses are occupied by the owners. In all probability by far the greater number of those houses are occupied by tenants, and I think it may safely be assumed that the owners of those which are let to tenants make as much as they possibly can out of those tenants. If anyone has any doubts as to the correctness of this last assumption, he should read the Report of the Royal Commission on the Housing of the Working Classes.[1]

I see nothing in the evidence given before that Commission to justify the conclusion that the tenants get their houses at a smaller rent in consequence of the houses which they occupy being exempted from taxation. On the contrary the evidence points very strongly to the conclusion that the amount of the taxes has nothing to do with the rents. The landlords are in plain fact

[1] 1889. P. S. King & Son. 8d.

dealing with a monopoly, and that which mainly determines the rent is not the cost of production, in which the tax is an element, but the ability of the tenant to pay, in which the tax is not an element. And consequently the only large class of persons who are benefited by the exemption of small houses from taxation are the owners, who are a class who have no better claims than any other people to be benefited at the cost of their neighbours, and who, judging by the evidence above referred to as to London, are not entitled to any very favourable consideration.

In fact this remission of taxation appears in effect to be a gift by the more worthy members of the community to a very undeserving class, viz., the owners of small houses, whereas it was intended to be a gift to the struggling occupiers. It seems well worthy of consideration whether any remissions of taxation which are based on the belief that they are a benefit to the class relieved are judicious, and whether it would not be better to benefit such people directly and unmistakably by rigorously enforcing the sanitary and other laws. It is much more to the point from a philanthropic point of view to make certain that a workman lives in a decent sanitary house than to remit a tax in the hope that the rent will be reduced, more especially as it is at least doubtful whether the rent is reduced, and doubtful whether many of the tenants make good use of the reduction even if effected.

The annual value in Great Britain of houses under £20, and consequently untaxed, is £46,541,521. If these houses were taxed at an average of 2d. in the £, they would yield a sum of about £390,000. If that sum were spent on a systematic inspection of those houses, and in seeing that the sanitary law was

properly enforced, I think it cannot be doubted that the money would be well expended for the benefit of both the general community and the poor occupier, instead of being frittered away in small sums and handed over to undeserving landlords.

If the argument in favour of the exemption of small properties is based to any extent upon the extreme difficulty of collecting an immense number of very small taxes from a class of small occupiers who frequently change their residence, I say that that is an argument which is fatal to the principle of the tax on any occupier, for when reduced to its simplest terms, it is a statement that occupiers who can be easily got at shall pay for those who cannot be easily got at; and the logical outcome of such an argument is to abolish such a tax, and substitute one which will fall equally on all persons. I believe that the supposed difficulty of taxing the owners of small properties has not been experienced in America.

In the evidence given by Mr Marchant Williams, Inspector of Schools for the London School Board, before the Royal Commission on the Housing of the Working Classes, will be found a statement that he had examined 923 houses, taken at random, in Clerkenwell, St Luke's, and St Giles', and found that 46 per cent. of the tenants paid from one-fourth to one-half of their wages as rent. This certainly does not look as though the exemption from this tax has done much for the class which was intended to be benefited by the exemption.

The second class of houses which are exempt from inhabited house duty is composed of messuages and tenements not used as dwelling-houses, and of houses and parts of houses used solely for trading purposes.

The total annual value of such untaxed property in the Metropolis amounted in 1896–97 to £9,091,635, and the number of such houses was 43,921, which gives the average annual value of such houses in the Metropolis as close upon £200.

The total annual value of such untaxed property in England (including the Metropolis) amounted to £28,891,977, and the number of such houses was 375,559, which gives the average annual value of such houses for the whole of England as a little over £77.

It is interesting to examine the figures as to the Metropolis a little more in detail. The average annual value of all the exempted houses in this class in the Metropolis is close upon £200. But it will be remembered that this class is composed of three subordinate classes, and the figures on pages 88 and 89 of the 41st Report enable us to calculate the average annual value of the houses in each of those subordinate classes. They are as follows:—

	Average Annual Value. £
Houses not used as dwelling-houses . .	169
Parts of houses used solely for trade purposes	734
Houses used solely for trade purposes . .	445

Take these two last figures. They represent the average value of business premises of which the annual value is £740,843 and £2,088,379 respectively. It shows pretty clearly that a class of property which is better able to bear taxation than any other is entirely exempt from this tax.

It seems difficult to formulate any reason why a bank house should be untaxed and the bank clerk's house taxed. The dwelling-house of the city clerk is as much a part of the machinery of business as the bank building,

in which the books are kept and the business is transacted. They stand in every respect on the same footing. The business of banking could not be carried on without either of them, and any argument which can be advanced against taxing the bank building applies with at least equal force against the taxation of any other building necessary to the trade. And there are some arguments against the taxation of the clerk's house which are not applicable to the banking house. For example, the effect of throwing the tax on the clerk is that, in many cases, no tax is collected, because the clerk lives in a house below the taxable limit. Again, the tax is shifted from the bank shareholder, who is wealthy, to the clerk, who is not.

It is very difficult to see any logical ground on which this tax is levied. It is one of the results of taxing property instead of taxing individuals. And as the properties taxed bear no uniform proportion to the ability of the owner to pay taxation, some persons are too much taxed and others are not taxed enough.

It appears from the 41st Report of the Commissioners of Inland Revenue for the year 1896–97, page 89, that the total annual value of houses, including dwelling-houses, shops, beer-houses, farm-houses, and lodging-houses, over £20 in England which were charged to inhabited house duty was £67,778,931, and that the number of such houses was 1,319,660, which gives an average annual value of about £51 for the taxed houses over £20.

In the same year, the total gross assessment for income tax was £700,447,064 (p. 102). From this sum may be deducted the incomes under £150 and deductions in respect of incomes under £400, which amounted to £65,197,407 (p. 107), to which should be added a sum

of about £7,000,000 for repayments made in the next year in respect of abatements, leaving an income of £628,349,657.

Now if we assume that all persons with incomes below £400 occupy houses under £20, and that all persons with incomes over £400 occupy houses over £20, then we get the average income of the occupiers of houses over £20 as £476; and the proportion of rent to income obtained by dividing 476 by 51 is 1 to 9·3. The ratio of rent to income in the case of wealthy people must however be very much less than 1 to 9·3. On page 128 of the 41st Report of the Inland Revenue Commissioners for 1896–97 is a Table showing the number of persons assessed who made returns under Schedule D in respect of incomes over £5000, and the total amount of that portion of their incomes which came under Schedule D. The number of persons was 2941, their income was £34,250,515, giving an average income of £11,350. If their average rental was £600, the ratio of rent to income would be 1 to 19. And if the income of these persons from other sources had been taken into account, the proportion would have been much smaller than 1 to 19. By the Finance Act, 1894, a deduction of one-eighth is allowed from the assessment under this schedule on lands, including a farm-house occupied with land, and a deduction of one-sixth on houses. This is meant as an allowance for repairs, and is made on the assessment.

THE INCOME TAX.

This tax was first imposed by Pitt in 1798, in the form of an assessed tax or duty, regulated by the amount of income which the person charged with the tax possessed.

In 1799 the tax was imposed in another form: all persons were required to make returns of their whole income, and to pay a duty of 10 per cent. on the sum so returned.

This Act appears to have worked indifferently, partly because people objected to disclose the total amounts of their income, and partly because the recipients of the income were looked to to make the return instead of the persons who paid the income to the recipients.

In 1803 the much more certain method was adopted of gathering the tax at the source where the income originated, and this policy was followed in subsequent Acts, for example, by the Act of 1806, whereby the tax payable on dividends in the public funds was made payable by the banks which paid the dividends instead of the recipients who received them.

By the Act of 1803 (43 Geo. III., 122) the sources of income in respect of which the tax is made payable were for the first time divided into the classes mentioned in Schedules A, B, C, D, and E.

The Schedules now in force are contained in the Act of 1853 (16, 17 Vict., 34).

In the following pages the Schedules are set out, and after them will be found a statement showing the full value of taxable property coming within such Schedules, and the amounts exempted.

The tax is really a tax on incomes, and therefore property yielding no income—such as pictures, plate, etc. —are not taxable.

SCHEDULE A.

"For and in respect of the *property* in all lands tenements and hereditaments and heritages in the United Kingdom and to be charged for every twenty shillings of the annual value thereof."

This tax is a tax on owners and not on occupiers, but in England this tax is paid in the first place by the occupier, who deducts it from the rent, excepting in the case of a house under £10 in value, in which case the owner is assessed directly. In Scotland it is usually paid by the owner as a matter of convenience, and in Ireland it is by law charged on him direct.

Lands and tenements are charged according to their gross annual value, and new assessments of that value are made every three years. No tax is payable in respect of unoccupied houses. Unoccupied land is, strictly speaking, chargeable, but shortly prior to 1884 the rule was relaxed, and the tax was levied on the actual amount of the rents received only.

By the Finance Act, 1894, a deduction of one-eighth is allowed from the assessment under the Schedule on lands, including a farmhouse occupied with land, and a deduction of one-sixth on houses. This is meant as an allowance for repairs, and is made on the assessment.

SCHEDULE B.

"For and in respect of the *occupation* of all such lands tenements hereditaments and heritages aforesaid and to be charged for every twenty shillings of the annual value thereof."

This is a tax which falls on the occupier; he is the person who is called upon to pay it, and he cannot deduct the amount from the rent due to his landlord.

The 28th Report says that this is, in effect, a charge on the profits made by the occupier—that for income tax purposes. 'Annual value' may be defined as the best rent that can be obtained when the landlord and tenant respectively bear their own burdens.

Changes were made in the method of assessing the amount due under this Schedule by the Finance Acts of 1894 and 1896. By the latter Act it is enacted that one-third of the annual value under Schedule A is to be taken as the chargeable amount under Schedule B. Farmers are given the option of being assessed under this Schedule or under Schedule D as regards profits made by their farming.

The tax as to property under Schedule A is a tax on owners of land and houses, the tax as to the same property under Schedule B is a tax on the occupiers, and thus it appears as if the same property were taxed twice, but in reality this is not so, for both the owner and the occupier derive an annual income from the same land, and the rent is a tolerably accurate measure of the owner's income and a conventional measure of the occupier's. It seems, however, that in the case of property let on lease in a town, the rent may be an accurate measure of the landlord's income when measured in cash, but it is not, by any means, an accurate measure of the interest on the continually increasing value of the property. The interest on the value is the true measure of what his income might be, and would be the actual measure if he sold his property while the lease was running.

SCHEDULE C.

"For and in respect of all profits arising from interest, annuities, dividends, shares of annuities payable to any person, body politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, and to be charged for every twenty shillings of the annual amount thereof."

SCHEDULE D.

"For and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any kind of property whatever, whether situate in the United Kingdom or elsewhere;

"And for and in respect of the annual profits or gains arising or accruing to any person residing in the United Kingdom from any profession, trade, employment, or vocation, whether the same shall be respectively carried on in the United Kingdom or elsewhere, and to be charged for every twenty shillings of the annual amount of such profits and gains;

"And for and in respect of the annual profits or gains arising or accruing to any person whatever, whether a subject of Her Majesty or not, although not resident within the United Kingdom, from any property whatever in the United Kingdom, or any profession, trade, employment, or vocation, exercised within the United Kingdom, and to be charged for every twenty shillings of the annual amount of such profits and gains;

"And for and in respect of all interest of money, annuities, and other annual profits and gains not charged by virtue of any of the other Schedules contained in this Act, and to be charged for every twenty shillings of the annual amount thereof."

SCHEDULE E.

"For and in respect of every public office or employment, and upon every annuity, pension, or stipend, payable by Her Majesty or out of the public revenue of the United

Kingdom, except annuities charged to the duties under the said Schedule, and to be charged for every twenty shillings of the annual amount thereof."

Down to 1876, many Acts were passed exempting small incomes from taxation, and in that year incomes below £150 were entirely exempted, and an abatement of £120 was allowed on incomes between £150 and £400.

In 1894 incomes under £160 were exempted, and abatements were allowed of £160 on incomes under £400, and of £100 on incomes under £500. And by the Finance Act, 1898, which is the Act now in force, incomes not exceeding £160 are exempt from duty and abatements are allowed:—

	£
On incomes between £160 and £400 . .	160
„ £400 and £500 . .	150
„ £500 and £600 . .	120
„ £600 and £700 . .	70

Allowances are also made for the payment of Life Insurance Premiums, which in 1896–97 amounted to over five million pounds.

The following Table shows the assessments under the five schedules, and the exemptions.

The figures are for 1897, for Great Britain, and are taken from the 41st Report of the Inland Revenue Commissioners, at page 113 and following pages.

[TABLE.

	Gross Assessment.	Net Amount charged to Duty.
Schedule A—	£	£
Lands	54,800,902	. .
Messuages . . .	158,744,515	
Tithes, etc. . . .	623,915	
Total gross assessment .	214,199,332	
Total Deductions . .	52,667,130	
		161,532,202
Schedule B—		
Lands :—Assumed profits, (*i.e.*, one-third annual value)	18,277,153	
Nurseries, etc., profits of .	219,548	
Total gross assessment .	18,496,701	
Total deductions . .	12,099,963	
		6,396,738
Schedule C—		
Funded debt and terminable annuities . .	13,576,829	
Unfunded debt . . .	64,378	
India Government stocks .	3,485,654	
Indian guaranteed railways, etc. . . .	4,580,212	
Foreign and Colonial funds	16,790,472	
		38,497,545
Schedule D—		
Trades and professions .	179,191,688	
Total deductions . .	50,620,671	
		128,571,017
Concerns described in Rule 3 :—Mines, Quarries, Gas works, Iron works, etc. .	28,341,005	
Public Companies other than those in Rule 3 .	87,570,834	
Foreign and Colonial securities . . .	9,351,688	

	Gross Assessment.	Net Amount charged to Duty.
Schedule D—*continued.*	£	£
Coupons	9,277,808	
Railways in United Kingdom	37,541,260	
Railways out of United Kingdom . . .	12,833,133	
Interest paid out of rates .	5,234,346	
Other interest . . .	2,153,311	
Other profits . . .	1,297,097	
Profits from occupation of lands	10,717	
Total assessment . .	193,612,533	
Total deductions . .	4,892,701	
		188,719,832
Schedule E—		
Salaries from public offices	17,854,757	
Salaries (others) . .	38,594,508	
Total gross assessment .	56,449,265	
Total deductions . .	17,457,543	
		38,991,722
Total gross assessments .	700,447,064	
Total deductions . . .	137,738,008	
Total net income actually charged to duty . .		562,709,056

It will be observed from this Table that the total amount of the annual income which went untaxed in England was £137,738,008, or very nearly 20 per cent. of the total gross assessment.

The following are the figures of the total deductions for the year ending April 1897, taken from the 41st Report of the Inland Revenue Commissioners, pages 111, etc.:—

Under Schedule A—

	£
Deductions for land tax, parochial rates on tithes, etc.	2,223,051
Repairs	30,229,242
Exemptions of incomes under £160	14,845,174
Abatements on incomes under £500	2,033,860
Other allowances to hospitals, etc.	3,335,803
Total deductions, etc., under Schedule A	£52,667,130

Under Schedule B—

	£
Exemptions of incomes under £160	9,896,480
Abatements for incomes under £500	2,135,446
Assumed profits of those electing to be assessed under Schedule D and loss by fractions	67,037
Total deductions under Schedule B	£12,099,963

Under Schedule C, nothing.

Under Schedule D—

	£
Abatements for incomes under £500	47,377,146
Allowances—Life Insurance	2,379,451
Wear and Tear	5,756,765
Total deductions under Schedule D	£55,513,372

Under Schedule E—

	£
Abatements for incomes under £500	15,604,655
Life Insurance Premiums	1,063,262
Travelling Expenses	789,626
Total deductions under Schedule E	£17,457,543

From the return on page 107 it will be seen that the total number of incomes subject to abatement by reason

of being under £400 was £65,197,407. Incomes under £160 are only assessed under Schedules A and B, but under these Schedules £24,741,654 was exempted. If to these figures are added the incomes between £400 and £500, amounting to £1,953,700, there is a total amount of £91,892,761 subject to exemption and abatement, a large proportion of the total deductions, viz., £137,738,008. It will thus be seen that the principle of throwing a larger proportion of the burden of this tax on those having large incomes is recognised as being desirable.

DEATH DUTIES.

A considerable sum is raised each year by what are known as the Death Duties. These duties are levied on both real and personal property on the event of any change of ownership caused by death, and it is from this circumstance they take their name.

These duties are now regulated mainly by the Finance Act, 1894, but some reference must be made to the former Acts on the subject. Formerly the Bishop had the right of distributing the personal property of the deceased, unless it could be proved that he had left a will. If this will were proved to the satisfaction of the Bishop, probate was granted to the executor. Each diocese had therefore the power of granting probate of wills, and it was not until probate was granted that the executor could sue. At the present time one probate is granted for the whole of England. The grant of probate enables the executor to sue in any English court, but, of course, cannot give him any right abroad. Hence the duty which the executor is called upon to pay on the grant of probate is levied on all personal property coming into his hands within the jurisdiction

only. The rate of this duty varied from time to time, and it is now not paid as such, but is paid as estate duty.

By the Finance Act, 1894, probate duty was put an end to, and now a duty called Estate Duty is substituted for it. This duty is imposed on both real and personal property, and is levied in respect of all property of which the deceased could dispose at the time of his death. The whole of the property taxable is valued in one valuation, and the rate at which the duty is payable varies with the amount of the valuation from 1 up to 8 per cent., so that large estates pay a very much larger proportion of their value than small ones. By this new Act real and personal property are equally taxed on their capital value, but real estate and annuities have the advantage of paying the duty in instalments. It is not possible here to give an adequate account of what interests in property are taxable or not; it is sufficient to say that the payment of duty cannot be evaded by making a gift of property, unless that gift effectually deprives the giver of all power over the property, and is made more than a year previous to the death. The sum received in the year ending March 1898 in respect of estate duty was £12,011,152.

Another duty payable on death is the Legacy Duty. This duty is payable at a rate varying from 1 per cent., where the legatee is a descendant or ancestor of the deceased, up to 10 per cent. where the legatee is a complete stranger in blood, or very remote relation. It is payable, roughly speaking, on any personal property or money which is left by will, or to which the next of kin succeed. The duty is payable if the deceased was domiciled in England, quite independently of where the

property is situated; and conversely, if the testator were domiciled abroad, the duty will not be payable though the legatee lives in England. The chief exemption from this duty is that where the estate duty has been paid, the 1 per cent. legacy duty is remitted, and where the legatee is husband or wife of the testator, or the legacy is under £20, no duty is levied. This duty in the year 1897–98 produced £2,608,886.

There is one more duty which comes under this heading, and that is the Succession Duty, which in 1897–98 produced £739,327. The details of this duty are most complicated. It may be said to be payable on property which passes gratuitously on death from one person to another. But it is not payable on all property; it is payable on real and leasehold property situate in the United Kingdom, and on personal property administered in the United Kingdom, and not subject to legacy duty. This duty is levied on a varying scale of 1 to 10 per cent.,—like the legacy duty, the relationship being calculated from the original settlor or testator; and as in the case of legacy duty, the 1 per cent. duty is not levied where the estate duty has been paid, though there is a duty of 1 per cent. extra levied on all estates put in settlement. This settlement estate duty is paid once for all on the creation of the settlement, and frees the property from being liable to estate duty on the death of the successive holders.

INCOME AND EXPENDITURE.

IMPERIAL.

The following Table is taken from the Statements of the Revenue and Expenditure as laid before the House of Commons by the Chancellor of the Exchequer when opening the Budget in April 1899:—

Expenditure.		Revenue.	
			£
I. Consolidated Fund Services:	£	Customs .	20,850,000
National Debt	25,000,000	Inland Revenue:	
Other Consolidated Fund Services .	2,044,000	Excise . .	29,200,000
		Estate Duties	11,400,000
II. Supply Services:		Stamps . .	7,630,000
Army . .	20,000,000	Land Tax .	770,000
Navy . .	24,068,000	House Duty .	1,600,000
Civil Service	22,025,000	Property and Income Tax	18,000,000
Customs and Inland Revenue	2,816,000	Total Receipts from Taxes	89,450,000
Post Office .	8,030,000		
Telegraph Service . .	3,347,000	Post Office .	12,710,000
Packet Service	820,000	Telegraph Service . .	3,150,000
Total Supply Services .	81,106,000	Crown Lands.	430,000
		Suez Canal Shares, etc..	713,000
		Miscellaneous.	1,883,000

Expenditure.		Revenue.	
	£		£
Total Expenditure . .	108,150,000	Total from Non-Tax Revenue	18,886,000
Excess of Income over Expenditure . .	186,000	-	
	£108,336,000	Total Revenue	£108,336,000

In addition to this, a sum of £4,624,399 was collected by Imperial Officers in respect of Customs, Excise Licences, and Estate Duty, of which £9,402,310 were paid into the Local Taxation Accounts to be expended locally.

LOCAL AUTHORITIES.

The following tables are taken from the Appendix to Part VII. of the Local Taxation Accounts for 1896–97, where they are numbered as Tables II. and IV. They show the receipts of all the local authorities from all the various sources, and the objects of expenditure.

Tables I. and III., in the same summary, show the receipts and expenditure of each of the various local authorities, such, for example, as the Poor Law Authorities, Municipal Corporations, etc., but there is so much cross accounting between them that it is impossible to give a fair abstract of these tables in an abbreviated form.

Items of Receipt other than from Loans:—

	£
Public Rates	37,542,016
Grants under Agricultural Rates Act .	25,916
Treasury Subventions and Payments .	3,390,487

	£
Contributions from Local Taxation Account	957,712
Exchequer Contribution Accounts	5,264,483
Tolls, Dues, and Duties	3,695,712
Receipts from Real and Funded Property	1,708,148
Sales of Property	650,330
Fees, Fines, and Licences	719,204
Water Works	3,166,824
Gas Works	4,864,381
Cemeteries and Burial Grounds	310,969
Sewage Farms and Sewerage Works	164,017
Baths, Wash-houses, and Bathing Places	185,208
Fire Brigades	55,740
Lunatic Asylums	91,725
Hospitals	30,001
Tramways	303,355
Slaughter-houses	28,648
Public Libraries and Museums	68,065
Other Public Works and Purposes	512,540
Private Improvement Works	1,094,361
Other Receipts	1,682,425
Total Receipts	£66,512,267

Purposes of Expenditure not defrayed out of Loans:—

	£
Relief of the Poor	7,996,683
Lunatic Asylums	1,950,980
Police	4,825,728
Prosecutions, etc.	206,815
Education	7,236,002
Reformatories and Industrial Schools	230,756
Highways, Street Improvements, etc.	7,742,285
Gas Works	3,753,205
Public Lighting	1,215,616
Electric Lighting and Supply	177,842
Water Works	1,192,130
Sewerage and Sewage Disposal	1,434,306

	£
Markets and Fairs	350,308
Cemeteries and Burial Grounds	348,229
Fire Brigades and Engines	324,655
Public Buildings, Offices, etc.	273,240
Parks, Pleasure Grounds and Open Spaces	442,966
Public Libraries and Museums	365,276
Baths, Wash-houses, and Bathing Places	246,461
Bridges and Ferries	199,315
Artizans' Dwellings Improvements	33,076
Contagious Diseases (Animals)	41,420
Hospitals	448,264
Harbours, Docks, Piers, and Quays	1,614,588
Tramways	160,736
Slaughter-houses	21,750
Land Drainage, Embankments, etc.	284,554
Allotments	50,969
Other Public Works and Purposes	3,587,911
Private Improvement Works	810,811
Loans Repaid, Interest and Sinking Funds	13,458,833
Salaries and Superannuation Allowances	2,031,768
Establishment Charges	668,741
Legal and Parliamentary Expenses	195,541
Election Expenses	69,867
Other Payments	418,832
Total Expenditure	£64,710,459

Tables V. and VIII. show that the various local authorities in the year 1896–97 received as loans a sum of £13,340,217, and expended out of loan capital a sum of £13,811,812.

And Table IX. shows the outstanding loans of local authorities were as follows:—

	£
Poor Law authorities	8,616,537
County Councils (other than London)	3,826,830
Town Councils acting as Municipal authorities	15,109,397

	£
Town Councils acting as Urban Sanitary authorities or Urban District Councils	105,745,599
Urban District Councils (other than Town Councils)	17,376,022
Joint Board and Joint Committees	2,708,951
Rural District Councils	2,275,675
Parish Councils	140,291
Port Sanitary authorities	32,109
Burial Boards	1,980,943
Commissioners of Baths and Washhouses	396,570
Conservators of Commons	35,000
Commissioners for Public Libraries	119,160
Commissioners of Markets and Fairs	47,685
Bridge and Ferry Trustees	2,550
Metropolitan Vestries and District Boards	3,219,938
Trustees of Metropolitan Squares	1,563
Commissioners of Sewers of the City of London	1,472,292
London County Council	22,188,054
Receiver, Metropolitan Police District	428,000
Corporation of London	4,505,200
Commissioners of Sewers	74,274
Drainage, Embankment, and Conservancy Boards	2,105,064
Fresh-water Fishery Boards	2,071
Harbour, Pier, and Dock authorities	33,406,497
School Boards	26,255,386
Highway authorities in Rural Districts	53,851
Turnpike Trustees	9,435
Total	£252,135,574

ORIGIN OF LOCAL AUTHORITIES: THEIR POWERS AND DUTIES.

In the following pages I have attempted to give in as few words as possible an historical sketch of the origin and growth of some of the principal classes of local authorities, and of their most important powers and duties. An accurate knowledge of their powers and duties can be obtained only by a careful study of the Acts themselves, which are very numerous. The law on some of the most important of these subjects has never been properly codified, and in some cases, consequently, it cannot be found in any one statute, or in any set of statutes, but must be looked for in statutes which apparently have no connection with that particular subject. As, for example, the law relating to highways, which will be found in the Acts relating to Highways in the Municipal Corporations Acts, the Sanitary Acts, the Local Government Act, and the Poor Law Acts.

The law with respect to the Metropolis differs in many cases from the law which applies to the rest of the country; it is in fact in a great measure to be found in statutes which relate to the Metropolis alone. In the following pages no reference is made to those metropolitan statutes.

POOR LAW AUTHORITIES.

I have thought it most convenient to begin with a sketch of the poor law authorities, as being probably the earliest of the existing authorities created by statute.

The Act which is usually considered to have been the first step towards a systematic relief of the poor out of funds raised by a compulsory rate is 43 Eliz. c. 2, passed in 1601, entitled, "An Act for the Relief of the Poor." The principal section has already been set out on page 10 of this book, and it is therefore sufficient to say that it enacted that certain persons nominated by the justices should be appointed as overseers to look after the poor, and to raise a fund for their relief by the taxation of the inhabitants of the parish.

This Act appears to have worked tolerably well for many years after it was passed, but at last abuses began to grow which other Acts were from time to time passed to meet. But these Acts were badly conceived, and wholly unsuited for the purposes in view; and anyone who wishes to learn how the administration of the Poor Laws came, as far back as the beginning of this century, to be a gigantic scheme of national pauperisation, should read Mr Fowle's work on the Poor Law.

Eventually the Poor Law Amendment Act of 1834 (4, 5 Will. IV., 76) was passed, which is at this day the foundation of the system of poor relief, although it also has been amended in countless ways.

This Act provided for the temporary appointment of Poor Law Commissioners and Assistant Commissioners. The administration of relief to the poor was made subject to the direction and control of the Commissioners, who had power to issue rules and orders for the guidance and control of all guardians, vestries, and parish officers so

far as relates to the management or relief of the poor. They had power to order workhouses to be built, hired, altered, or enlarged, and to defray the expenses out of the rate, and to direct that as many parishes as they thought fit should be united into Unions: the several parishes included in the Union were to be assessed to a common fund (for building, altering, maintaining workhouses, payment of salaries, providing materials for setting the poor to work, and for any other expenses incurred for the common use or benefit of such parishes) in the proportion of their former annual average expenditure.

A Board of Guardians of the Poor for each Union was to be elected by the ratepayers to govern the workhouses and administer the relief of the poor. The Commissioners were authorised to issue rules and to regulate the amount of out-door relief given: and the former Acts as to out-relief were repealed. And it was enacted that the giving of relief to the poor should belong exclusively to the guardians or select vestry, and to the overseers only in cases of emergency. The Poor Law Act of 1834 made no change whatever as to the classes of persons who were to be rated, nor as to the way in which the amount payable was to be ascertained.

But in 1836, "An Act to regulate Parochial Assessments" (6, 7 Will. IV., 96) was passed, for the purpose of establishing one uniform mode of rating for the relief of the poor. By this Act the rate was to be levied in future "upon an estimate of the net annual value of the several hereditaments rated thereunto; that is to say, of the rent at which the same might reasonably be expected to let from year to year, free from all tenants' rates and taxes, and tithe commutation rent-charge, if any, and deducting therefrom the probable average

annual cost of the repairs, insurance and other expenses, if any, necessary to maintain them in a state to command such rent."

By the Poor Law Board Act of 1847 (10, 11 Vict., 109), the Poor Law Board was brought into existence. It consisted of a permanent Board of Commissioners, known as the Poor Law Board, who took over all the duties and powers of the Poor Law Commissioners under the Act of 1834. Inspectors were appointed, who took the place of the Assistant Commissioners under the Act of 1834, with power to inspect every workhouse and to attend all meetings of boards of guardians. Under this Act the country has been divided for the purposes of inspection, control, etc., into the eleven well-known districts, 44 union counties, and 647 unions. The Poor Law Board so formed continued in existence down to 1871, when it became merged in the Local Government Board.

The Local Government Board was constituted by an Act (34, 35 Vict., 70), passed for the purpose of concentrating in one department the supervision of all matters relating to the relief of the poor, public health, and local government, the two latter being matters which had rapidly grown into very great and general importance since the date when the Poor Law Board was created and its powers and duties ascertained.

In 1857 an Act (20 Vict., 19) was passed to facilitate levying poor and other rates in extra parochial places, and giving the Justices power to annex such places to the adjoining parishes.

The Union Assessment Committee Act, 1862 (25, 26 Vict., 103), was an Act to amend the Law relating to Parochial Assessments in England. It enacted that every Board of Guardians should, as soon as convenient

after passing of the Act, and in every subsequent year, elect an Assessment Committee of the Union to investigate and supervise the valuations. And that the overseers of each parish should, within three months of the appointment of such Committee, make a list of all the rateable hereditaments in each parish, and the annual value thereof, to be styled the Valuation List, and that the Guardians should use the rateable value as shown in the Valuation List in computing the contribution to the Common Fund of the Union. The gross estimated rental was defined as the rent at which the hereditament might reasonably be expected to let from year to year, free of all usual tenants' rates and taxes and tithe commutation rent-charge, if any: provided that nothing therein should repeal or interfere with the provisions contained in 6 & 7 Will. IV. c. 96, defining the net annual value of the hereditaments to be assessed.

In 1865 a very important Act, entitled the Union Chargeability Act (28, 29 Vict., 79), was passed for the purpose of distributing the charges for the relief of the poor over the whole Union. It provided that all cost of the relief of the poor, burials of poor persons, and all charges incurred by the Guardians in respect of vaccination and registration should be charged on the Common Fund of the Union, and it repealed the 26th section of the Act of 1834 so far as it required that each parish in a Union should be separately chargeable with the expense of its own poor.

In Messrs Wright (now Mr Justice Wright) and Hobhouse's most valuable work, entitled, *An Outline of Local Government and Local Taxation*,[1] at page 38, there is a list of the expenses chargeable respectively on the Common Fund and on the individual parishes.

[1] Second Edition. 1895. P. S. King & Son. 7s. 6d.

The Poor Rate Assessment and Collection Act of 1869 (32, 33 Vict., 41) authorised overseers by agreement or otherwise to rate the owners instead of the occupiers of premises let for terms not exceeding three months.

By the Local Government Act of 1894 (56, 57 Vict., 73) it was enacted that in future there should be no *ex officio* or nominated guardians, but that all guardians should be elected by the parochial electors (*i.e.*, persons on the local government or parliamentary registers) and should hold office for three years, and that no person should be disqualified by sex or marriage from being a guardian. With respect to rural districts, this Act, sect. 24 (as will be noted at greater length hereafter when discussing the Public Health Acts), provided for the election in every rural sanitary district of a district council, which is to take over the powers and duties of the rural sanitary authority, viz., the guardians. The council is to consist of a chairman and councillors, to be elected by the parishes in the district, the number of councillors to be the same as the number of guardians is now; and the district councillors are to be the representatives of the parishes electing them on the board of guardians, and guardians, as such, are no longer to be elected for parishes. This Act also provided for the election of a parish council for every rural parish, and conferred on it the power and duty of appointing overseers and assistant overseers, sect. 5.

Innumerable other Acts relating to the poor laws have been passed, which there is not space here to notice. Anyone desiring to obtain a clear view of the administration of the poor laws should consult Mr Fowle's excellent work, or Miss Lonsdale's pamphlet.[1] For a

[1] *English Poor Laws: their History, Principles, and Administration.* P. S. King & Son. 1s.

full account of the origin and history of the Poor Laws, see Nicholls' standard work,[1] which has been continued up to the present time by Mr T. Mackay.[2]

INCORPORATED BOROUGHS.

Prior to the Municipal Corporations Act of 1835, which brought all incorporated towns under one uniform system of municipal government, the governing authorities in these towns and their powers were defined by charters which had been granted by the Crown at different times, some of them being of great antiquity. Scarcely any two charters were the same, and the consequence was, that in 1835 the incorporated towns were governed by a variety of authorities exercising a very great variety of powers.

The Act of 1835 repealed all existing charters so far as they were inconsistent with the Act, and put all incorporated towns, of which a list was given in the Act, under a governing body called the Council of the Borough or the Town Council, composed of the mayor, aldermen and councillors.

The boundaries of the boroughs were laid down with precision by reference to roads, rivers, etc.; 118 of the boroughs were granted a separate commission of the peace. The council were authorised to undertake the lighting and watching of the borough, to appoint and dismiss constables, to borrow money, and to levy a borough rate to meet the expenses incurred in carrying out the Act, and for this purpose the council were

[1] *History of the English Poor Law*, 924–1853. P. S. King & Son. 2 vols. 30s.

[2] *History of the English Poor Law*, 1834–1899. P. S. King & Son.

given the same powers as the justices exercised in the county; and where a borough had a separate Court of Quarter Sessions, it was no longer liable to contribute to the county rate. This Act was repealed, but re-enacted with slight modifications by the Municipal Corporations Act of 1882 (45, 46 Vict., 50). By this Act, the governing body consists of the mayor, aldermen, and councillors, the aldermen being elected by the councillors and the councillors by the burgesses, or by the citizens in the case of a city. The mayor holds office for one year, the aldermen for six years, and the councillors for three years. They form the council of the borough, and appoint a town clerk, a treasurer, and other officers. The council have power to borrow, and to deal with the corporate property. The council has the same powers over bridges within the borough, which the borough is bound to maintain, as the justices in the county exercise over county bridges. The rents and profits of all corporate land, interest, dividends, and annual proceeds belonging to or payable to a municipal corporation, and fines and penalties were to go to the borough fund, which was to be charged with the payments mentioned in Schedule V., among which payments are those for the police, prosecution and maintenance of offenders, all expenses charged on the fund by Act of Parliament and all other expenses incurred in carrying the Act into effect, not otherwise provided for. And in case the borough fund was insufficient for these purposes—which it invariably was—the council was authorised to levy a borough rate and a watch rate.

The contributions to the borough rate were to be assessed on the several parishes and parts of parishes within the borough, in proportion to the total annual value of the hereditaments rateable to the relief of the

poor. The council was authorised to borrow money on the security of the rates, to be repaid in not less than thirty years if the Treasury should so order.

And the Act further provided that where a borough has a separate Court of Quarter Sessions, the justices of the county wherein the borough is situated shall not assess any hereditaments in the borough to any county rate, and except as expressly provided by this Act, every part of the borough shall be wholly free from contributing to any rate for the county. But the borough shall pay the costs of the prosecution, maintenance, etc., of offenders committed for trial from the borough to the assizes, and if a borough having a separate Court of Quarter Sessions was before 1832 liable to contribute to the county rate, it shall continue liable to contribute to the county rate for general county purposes.

The Act provided for the grant to the borough on petition of a separate Commission of the Peace, and for the appointment of justices to act in the borough with the same jurisdiction and authority as justices for the county, except that they had no power in making or levying any county or borough rate.

It also provided for the grant of a separate Court of Quarter Sessions to be held in the borough, and for the appointment of a Recorder with cognisance of all matters tried at Courts of Quarter Sessions for counties, but with no power to levy any borough rate, or grant licences; and for the appointment of stipendiary, magistrates, coroners, etc.

Under a variety of other Acts, the principal of which are the Public Health Acts, passed at various dates from about 1840 to 1875, the Councils of incorporated boroughs were invested with a great variety of other powers; but over the greatest of all the problems of

local government—viz., the relief of the poor—they appear to exercise no powers.

PUBLIC HEALTH.

The Towns Improvement Clauses Act of 1847 (10, 11 Vict., 34) was passed for the purpose of consolidating into one Act a number of provisions usually contained in Acts for paving, draining, cleansing, lighting, and improving towns. It did not apply to all towns and districts, but to such only as should be comprised in any subsequent special Act which should incorporate this Act.

It authorised the Commissioners or other persons named in the special Act as the persons to put it in operation, to appoint surveyors, inspectors of nuisances, officers of health, etc., and to levy a special rate in respect of private improvement, a special sewer rate for making new sewers, and a general sewer rate for maintaining and clearing the sewers, and to borrow on the security of the rates, the loan to be repaid in not less than thirty years. Portions of this Act relating to lines of frontage, dangerous buildings, slaughter-houses, etc., are incorporated by the Public Health Act, 1875.

The Public Health Act of 1848 (11, 12 Vict., 63) has been repealed by the Public Health Act of 1875, but it is well to notice it here, because it was the beginning of the system of local government by means of local boards. The Act was not a compulsory one, but was put in force on petition of the ratepayers. It provided for the establishment of a central authority, known as the 'General Board of Health,' composed of the First Commissioners of Works and two other persons, and 'Local Boards of Health,' which, in incorporated

boroughs, were the Town Councils, and in other districts were a certain number of persons elected by the owners and ratepayers, and commonly known as the Local Board.

The local board was authorised to appoint a surveyor and inspector of nuisances, and was invested with powers over the sewers, streets, water supply, lodging-houses, slaughter-houses, etc. It was authorised to levy special district rates for works of a permanent nature, general district rates, and private improvement rates, and water rates where they supplied water.

This Act was followed by the Nuisances Removal Acts of 1855 and 1860, and the Local Government Act of 1858, all of which, except as to the Metropolis, were repealed by the Public Health Act of 1875.

In 1871 the Act (34, 35 Vict., 70) was passed for constituting the central authority known as the Local Government Board, and for concentrating in one department of the Government the supervision of the laws relating to public health, the relief of the poor, and local government.

This Act was followed by the Public Health Act of 1872 (35, 36 Vict., 72), also repealed by the Act of 1875, except as to the Metropolis; but this Act is of considerable historical importance, because by it the whole of England was for the first time divided into urban and rural sanitary districts, urban districts being incorporated boroughs, Improvement Act districts, and Local Government districts, *i.e.*, districts subject to local boards; rural districts being the Poor Law unions, except those portions of such unions as are included in urban sanitary districts; the sanitary authorities in urban sanitary districts being the town councils, improvement commissioners, and local boards,

and in rural sanitary districts the guardians of the union.

The principal Act relating to sanitary matters now in force is the Public Health Act of 1875 (38, 39 Vict., 55), which does not extend to the Metropolis except as expressly provided. It retains the division of the country into urban and rural sanitary districts, and the authorities in such districts respectively are those mentioned in the Act of 1872.

Urban authorities are made the authorities to carry out the Bakehouse Regulation Acts, the Artizans' and Labourers' Dwellings Acts, the Baths and Wash-houses Acts, and the Labouring Classes Lodging-Houses Acts. The rural authorities are made the authorities for the purposes of the Bakehouse Regulation Acts.

The powers of urban authorities are more extensive than those of rural authorities, but, speaking generally, these authorities were given control over the following matters:—Offensive ditches, water supply and protection, cellar dwellings, lodging-houses, nuisances, offensive trades, unsound meat, infectious diseases, hospitals and mortuaries, highways, as to which the Act said that every urban authority should be the sole highway authority, with all the powers conferred by the highway Acts, and the inhabitants of urban districts were not to pay highway rates for roads outside those districts; regulation of streets and buildings, lighting, public pleasure grounds, markets and slaughter-houses, the matters provided for by the Towns Police Clauses Act, 1874, etc.; the appointment of medical officers of health, surveyors, inspectors of nuisances.

The following were the provisions as to the expenses of urban authorities:—All expenses incurred or payable by an urban authority in the execution of this Act

shall be defrayed out of the district fund and general district rate; except (1) that where at the passing of the Act the Borough Council defrayed the expenses arising out of the Sanitary Acts out of the borough rate, they shall continue to do so; (2) a similar provision as to improvement commissioners; (3) ditto as to urban authorities generally. A 'district fund' to be continued or established, and the treasurer of the urban authority to keep a 'district fund account.' For the purpose of defraying any expenses chargeable on the district fund, the urban authority might levy 'general district rates.' General district rates to be levied on the occupiers of all kinds of property assessable for the relief of the poor, and to be assessed on the full net annual value of such property ascertained by the valuation list for the time being in force, provided that farm lands, woodlands, market gardens, nursery grounds, canals, and railways shall be assessed in respect of one-fourth part of such net annual value. Unoccupied premises were not to be rated. And the urban authority might divide their district or any street into parts for all or any of the purposes of the Act, and might make a separate assessment on any such part. The urban authority might levy a 'private improvement rate' on the occupier of premises in respect of which expenses have been incurred, which such authority may declare to be private improvement expenses. And the occupier may deduct three-fourths of such private improvement rates from his landlord.

The following were the provisions in this Act with respect to the expenses of rural authorities. Those expenses were divided into general and special expenses. General expenses are in respect of the establishment and officers in relation to disinfection, conveyance of

infected persons, and all other expenses which are not special expenses. Special expenses are in respect of the construction, maintenance, and cleansing of sewers in any contributory place, for the water supply to any such place, and all expenses ordered by the Local Government Board to be special. A definition of a contributory place is given, but in too involved a manner to be repeated here.

The contributions are raised by the precept of the rural authority directed to the overseers of the contributory places, requiring them to pay the amount specified, as to general expenses, out of the poor rate, and as to special expenses by levying a separate rate in the same manner as a rate for the relief of the poor, farm lands, railways, etc., being rated in respect of one-fourth of the rateable value.

And with respect to the costs incurred by urban authorities in respect of highways, it enacted that in any urban district where the expenses under this Act are defrayed out of the several district rates, and no other mode of providing for the repair of highways is directed by any local Act, the cost of repairs shall be defrayed as follows:—(1) Where the whole of the district is rated for paving, water supply and sewerage, the cost of repair of highways to be defrayed out of general district rate; (2) Where parts are not rated for these purposes, the cost of repair of highways in those parts to be defrayed out of a highway rate to be separately levied in those parts by the urban authority as surveyor of highways, and the cost of repair in the residue of the district to be defrayed out of general district rate; (3) Where there are no public works of paving, water supply and sewerage, the cost of repair of highways to be defrayed out of a highway rate to be

levied throughout the whole district by the urban authority as surveyor of highways.

Now by the Local Government Act of 1894 (56, 57 Vict., 73, sect. 21), urban sanitary authorities are in future to be known as urban district councils, and their districts as urban districts, except that nothing is to alter the style or title of the Corporation or Council of a borough. And rural district councils are to be elected for every rural sanitary district, and the districts are to be known as rural districts.

The local sanitary authorities will therefore in future be town councils, urban district councils, and rural district councils, urban district councils being the old urban sanitary authorities under a new name.

In rural districts all the powers, duties, and liabilities of the rural sanitary authority in the district are transferred to the rural district council (sect. 25), so that in rural districts the sanitary authority will be a new body—the rural district council—invested with all the powers of the old rural sanitary authority, viz., the guardians, and with many additional powers.

HIGHWAYS.

The liability of the holders of land to repair the highways in a parish appears to have existed from time immemorial. It was a liability at common law, but there were various other ways in which the burden of repairing the whole or some of the highways was borne; for example, in some instances districts not coterminous with parishes repaired them by custom, and some incorporated towns repaired them according to the terms of their charters, or were bound to do so by prescription; in some cases particular occupiers were so bound. All

these were, however, exceptions to the general rule, that the landowners in a parish are *prima facie* bound to maintain the highways.

The Highways Act of 1835 (5, 6 Will. IV., 50) was in a great measure one for consolidating a number of provisions contained in former Acts which were repealed. It defined the word highways to mean all roads, bridges (not county bridges), carriageways, cartways, horseways, bridleways, footways, causeways, churchways, and pavements, and enacted that the inhabitants of every parish maintaining its own highways should annually elect, at a meeting in vestry, persons to act as surveyors, or a salaried surveyor, who might levy a rate to be allowed by two justices on all property liable to be assessed to the relief of the poor. This Act did not apply to turnpike roads or to roads under local Acts except as expressly mentioned. It further enacted that highways over county bridges erected after the date of this Act were to be repaired by the authorities who maintained the highways.

This Act put county bridges erected after the Act on a different footing from those previously erected. The latter are repaired according to the Statute of Bridges (22 Henry VIII., 5), in 1530, which provided that in cases where it could not be ascertained what hundred, parish, or borough ought to do the repairs, then bridges outside towns corporate were to be repaired at the expense of the county, and those inside the towns by the inhabitants of the town, and that the persons who were bound to repair the bridges should also repair the highways over them for a distance of 300 feet from each end of the bridge.

In 1850 an Act was passed (13, 14 Vict., 64) which provided that every bridge within the limits of an incor-

porated borough, which the borough and not the county was bound to maintain, should be repaired solely under the management of the council of the borough.

The next Act of importance relating to highways was the Highway Act of 1862 (25, 26 Vict. c. 61), which was intended to enlarge the areas of administration, and thus to modify the parochial system of management. The county justices were authorised to form the county, or any part of it, outside the boundaries of boroughs (with certain exceptions mentioned in the Act) into highway districts. Waywardens were to be elected for every parish, who were to form the highway board, in whom all property hitherto vested in the surveyors was to vest. The highway board were to maintain the highways and to appoint a district surveyor. Provisions for rating were made which have been repealed. The council of any borough might adopt the highways in a borough which had been hitherto repaired out of a rate on those parishes in the borough through which the highways passed, and repair them out of the borough rates.

No common plan for the formation of highway districts under this Act appears to have been adopted by the justices. Some adopted the area of the union, others, and more frequently, followed the petty sessional divisions, and in some cases districts were formed which did not coincide with any existing areas (Rep. High Com., 1881). The Local Government Board (constituted under the Act of 1871) has no power over the formation of such districts: that power rests solely in the county authorities. The seventh section of this Act had an unexpected effect. It enacted that no local government district should be included in any highway district, and consequently many small places proceeded to adopt the Act of 1848 so that they might not be included in a

highway district. The Local Government Act of 1863 put an end to this, by enacting that no place with a population under 3000 should adopt that Act.

The Highway Act of 1864 (27, 28 Vict., 101) introduces the expression 'Highway Parish' into the legislation affecting highways, but it is not apparent what useful purpose this inappropriate phrase was intended to serve. The Act enabled the justices, when forming a district, to include in it that part of a parish which was outside the limits of a borough, and to exclude that part within the borough; and provided that all expenses for the common benefit of the whole district should be paid out of the district fund raised by rating the parishes comprised in the district in proportion to their rateable value, and that the expenses of repairing the highways in each parish should be a separate charge on each parish.

The highway board was authorised to issue precepts to the waywardens or overseers of parishes stating the sum to be contributed by each parish and to be paid to the treasurer of the board. The waywardens were to pay the sum required out of a separate rate, and the overseers were to pay it out of the poor rate.

The Act of 1870 relating to highways (33, 34 Vict., 73) provided that the cost of maintaining any portion of any highway which, within seven years previous to the passing of this Act has ceased, or which hereafter may cease to be a turnpike road, which passes through a highway district, shall fall on the common fund of the highway district; and that where a turnpike becomes an ordinary highway, all bridges previously repaired by the trustees shall become county bridges.

Under the Public Health Act of 1872, the country was divided into two classes of districts, viz., urban and rural sanitary districts, the authorities being the town

councils, improvement commissioners, and local boards in urban districts, and the guardians in rural districts. And by the Public Health Act of 1875, the urban authorities are constituted the highway authorities exclusive of all other authorities.

The clauses in the Act of 1875 which relate specially to rating for the repair of highways in urban districts are as follows:—Where the whole district is rated for paving, etc., the cost of repairing the highways is to be paid out of the general district rate. Where parts of the district are not so rated, the cost of repairing the highways in such parts is to be paid out of a highway rate separately levied in such parts, and the repair of the highways in the other parts of the district is to be paid out of the general district rate. And where there are no public works of paving, etc., the cost is to be met out of a highway rate levied over the whole district.

The Act provides for the formation of a district fund and a general district rate to be levied by the urban authority on the full net annual value of all property assessable to the relief of the poor.

The Highways and Locomotive Act of 1878 (41, 42 Vict., 77) enacted that a county authority should so far as possible form the highway districts so as to be coincident with rural sanitary districts, and that when the two districts were coincident, the rural sanitary authority might apply to the county authority for leave to exercise the powers of a highway board, the existing highway board being then dissolved. It further provided that all expenses incurred by the rural sanitary authority as a highway board should be deemed to be general expenses within the meaning of the Public Health Act of 1875, which expenses are payable out of a common fund raised out of the poor rate.

This Act made a very important innovation on the old system of throwing the cost of maintenance of roads on the parishes or districts through which they passed. It defined a certain class of roads as main roads and threw half the cost of maintaining them on the county at large, by providing that the county authority should pay to the highway authority one-half of the expense. This class of main roads included any road which since December 1870 has ceased to be a turnpike road, and any road which the county authority might if they thought fit declare to be a main road, such as roads leading to railway stations.

Turnpikes usually connected towns and populous places in which the greater portion of the traffic passing over them originated, and they ran through agricultural districts in which comparatively little traffic originated. As the method of supporting such roads by tolls had fallen into disrepute and the turnpike trusts were abolished, the cost of repairing them fell on the parishes through which they passed, and the object of this Act was to remedy this injustice by throwing the cost on more extended areas. The Act has not, however, operated satisfactorily, for it has gone to the other extreme, and, to some extent, saddled remote parishes with the burden of supporting main roads which they never use (*Report on Highways*, 1881), and has failed entirely to saddle such persons as coal-dealers and brewers, who are the principal users, with a fair share of the cost, which is borne by the farmers. And the Act, for some obscure reason, placed boroughs having a separate Court of Quarter Sessions in a peculiarly favourable position, inasmuch as such boroughs are not bound to contribute to the cost of maintaining main roads outside the borough, whereas precisely similar boroughs, not possessing such courts, are bound to contribute.

In order to relieve the burthen of taxation in respect of main roads, grants were made by the Treasury to the various authorities charged with the repair of main roads, viz., the county authorities, highway boards, etc., to the extent of one-half of the expenditure of each such authority, so that the cost of maintaining a main road in a county fell in the following proportions:—The county paid one-half of the entire cost, receiving from the Exchequer one quarter of the entire cost, and the highway authority contributed the same, and received the same.

For example, in the county of Warwick, excluding Birmingham, which is a quarter sessions borough, the cost of maintaining the main roads was £17,418; one-half of this, viz., £8709, was contributed by the Exchequer, and the remaining half was divided equally between the county and the highway authorities. Birmingham neither contributed nor received.

The Local Government Act of 1888 (51, 52 Vict., 4) made a further change with respect to the incidence of the cost of maintaining main roads. Section 11 provided that every road in a county which is for the time being a main road shall be wholly maintained and repaired by the council of the county in which the road is situate, and that the costs should be charged to the general county account.

The County Council was authorised to contribute, if they thought fit, towards the cost of maintenance, etc., of any highway in the county, although the same was not a main road.

In county boroughs all bridges and approaches thereto within the borough, which were previously repairable by the county, were transferred to the Borough Council, and costs of repairing them and of repairing any main roads

within the borough were made payable out of the borough fund.

In quarter sessions boroughs (not being a county borough) having a population over 1000, it was enacted that such boroughs should, for the purposes of the Highways and Locomotives Act, 1878, form part of the county, and that the cost of maintaining, etc., the main roads in the borough should be paid out of the county fund, and that the parishes in the borough might be assessed for that purpose. Formerly such boroughs maintained their own main roads, and did not contribute to the maintenance of other main roads in the county, and consequently this enactment was necessary to give the County Council rating powers over such boroughs which their predecessors, the county justices, did not possess.

In the case of quarter sessions boroughs having a population less than 10,000, the powers of the Borough Council under the Highways and Locomotive Act of 1878 were transferred to the County Council, and the area of the borough for the purposes of this Act became part of the county and liable to be assessed to county contributions, and the County Council was authorised to declare any of the roads in the borough to be main roads.

In the case of other boroughs, which were not quarter sessions boroughs, which were included in the territories of the various County Councils, no other enactment was necessary as to the main roads than the general one that they should be maintained by the County Council, who had had transferred to them the same rating powers over the borough as formerly belonged to the justices.

In 1890 there were 6465 parishes in which the highways were maintained by the parish authorities acting

independently of adjoining parishes, according to the old practice of the common law, the roads being superintended by a surveyor elected by the inhabitants according to the Act of 1835, who levied a rate on all property rated to the relief of the poor.

Since 1862, and in pursuance of the Act of that year, parishes to the number of 7050 have been grouped into 363 highway districts, and have ceased to maintain their roads independently of adjoining parishes. The managing authority in such districts is the highway board, which consists of waywardens elected by each of the grouped parishes. The board has power to appoint a district surveyor. And there were forty rural sanitary authorities exercising the powers of a highway board over 735 highway parishes. And in addition to these rural authorities there were the following urban sanitary authorities, viz., the councils of 289 incorporated boroughs and 727 local boards.

COUNTY COUNCILS.

In counties the justices appear to have been the local authorities from time immemorial. They levied and expended rates for various county purposes, as well as acting as local judges in small matters. Their levying powers were transferred to the County Councils by the Act of 1888.

Up to 1738 the justices appear to have levied various rates separately under the various Acts for the repair of bridges, highways, gaols, houses of correction, conveying and maintaining rogues and vagabonds, and for other purposes. In that year an Act (12 Geo. II., 29) was passed for the purpose of enabling them to levy one general county rate for all those purposes. This

general rate was to be raised as part of the poor rate by the churchwardens and overseers, and to be paid to the county treasurer. The Act repealed a considerable number of earlier Acts, in most of which the rates were stated to be leviable on 'parishes' or 'townships,' and in one or two instances on the 'inhabitants.' This Act was amended in 1815 by 55 Geo. III., 51, which only calls for notice inasmuch as it speaks of "messuages, land, tenements and hereditaments," as being rateable to the poor, notwithstanding the fact that Lord Mansfield had in two reported cases (2 Burr 1064, in 1760, and Cowp. 452, in 1766) at least pointed out that the poor rate was not a tax on the land, but a personal charge in respect of the land.

Eventually, in 1852, the County Rate Act of 1852 (15, 16 Vict., 81) was passed, which enacted that the justices might appoint a committee of five to eleven to prepare a basis or standard for fair and equal county rates, such basis to be founded rateably and equally according to the full and fair annual value of the property rateable to the relief of the poor, and the committee was authorised to direct the overseers to make a return of the amount of the full and fair annual value of all property liable to be assessed to the county rate, and full and fair annual value was defined to be the net annual value as the same is assessed for the relief of the poor.

The justices, at Quarter Sessions, were authorised to direct a county rate to be made for all the purposes to which the county rate was or might be liable, and to assess and tax every parish or extra parochial place rateably on the above standard.

When justices had made a county rate, a printed list of the parishes and of the amount of the rateable value

was to be sent to the overseers or other persons who collect, and the justices were to order precepts to be issued to the guardians of unions or parishes to cause the aggregate of the sums so mentioned to be paid to the treasurer of the county, and the guardians were to raise the money as it is raised for the relief of the poor.

This Act has been amended by several subsequent unimportant Acts. And by the Local Government Act of 1888, the powers of the justices, with respect to rating, are now transferred to the County Councils.

The Local Government Act of 1888 (51, 52 Vict., 41) created a new set of local authorities called County Councils, and transferred to them a number of powers formerly exercised by the justices and town councils of incorporated towns. The difficulty of drafting this Act was no doubt enormous, and as it now stands it is the most difficult of all the statutes to understand.

The main objects of the Act were to transfer the administrative business of the justices, who are a body not elected by the ratepayers, to a new body called the County Council, which was to be elected by them, and to make provision for handing over a certain portion of the Imperial taxes (viz., duties on local taxation, licences, and a portion of the probate duty) to the local authorities, in substitution for local grants which had formerly been made by Parliament. And if the Act had been confined, if that had been possible, to effecting these objects, it would have been a comparatively simple one. But in the course of its development the Act was complicated by a number of provisions to such an extent that it is almost impossible for anyone to understand it except a lawyer who is already well versed in the whole subject of local government.

The scheme of the Act, as it now stands, is to establish County Councils (1) in the Metropolis; (2) in 62 large boroughs mentioned in the third Schedule, and called County Boroughs, which either had a population of over 50,000, or were counties of themselves; (3) in the 60 counties. In this way all the boroughs in the kingdom, excepting the Metropolis and the 62 county boroughs, were thrown into the counties, and for the purposes of the Act came within the jurisdiction of the Councils of those counties.

In order to follow out the consequences of this division a little more in detail, it is best to begin with the Councils of the counties, using that word in its ordinary geographical sense.

The Act transfers to the County Council the administrative business of the justices of the county in respect of the following matters:—Rating, borrowing, shire halls, lock-up and court-houses, licences for music, dancing, and racecourses, pauper lunatic asylums, reformatory and industrial schools, bridges, and powers vested in them under the Highways and Locomotive Acts, 1878, appointment of surveyors, analysts, election of coroners and salaries, division of county into polling districts, contagious diseases Acts, fish conservancy, wild birds, weights and measures. The Act conferred other powers on the County Councils, and provided that the county police should be under a standing joint committee of the County Council and Quarter Sessions, and that the County Council should maintain all main roads, enforce the Rivers Pollution Preservation Act, and appoint the medical officer of health.

At the time when this Act was passed there were 289 municipal boroughs in England and Wales, of which 62 were by the Act made county boroughs. Con-

sequently there were left 227 boroughs which, not having County Councils of their own, were left within the territorial limits of one or other of the 60 councils of the counties in which they were situated.

Many of these were either quarter sessions boroughs or had separate Commissions of the Peace, and the object of the Act was to transfer the administrative powers of the justices in these boroughs to the County Councils in the same way as it transferred as above the powers of the county justices.

And accordingly the Act provided (by sect. 36, which section appears to be out of its proper place in the Act) that where a borough (not a county borough) has a separate Commission of the Peace, whether a quarter sessions borough or not, then, subject to other provisions in the Act, all such powers, duties, and liabilities of the Court of Quarter Sessions of the borough, or the justices of the borough, as in the case of counties, are transferred from the County Justices to the County Councils, should be transferred to the County Councils, with the exception that the powers, duties, etc., of the justices relating to pauper lunatics were to be transferred to the councils of the boroughs and not to the County Councils.

It will be remembered that these boroughs, having a separate Court of Quarter Sessions, were, according to the Municipal Corporations Act and the Highways and Locomotive Act, 1878, not liable to be assessed to the county rate, but were wholly free from contributing to any county rate liable to contribute for general county purposes.

The Act divided these quarter sessions boroughs, of which there are 60, into two classes—those having a population of over 10,000 and those with a population below 10,000, and proceeded to enact, with respect to

those over 10,000, that there should be no transfer to the County Councils of any of the powers of the Borough Council, acting as the local authority, or alteration of the powers, duties, and liabilities of the Borough Council under the Municipal Corporations Act of 1882, but subject to the above provisions the boroughs were to form part of the county for the purposes of the Act, and, subject to the exemptions thereinafter mentioned, be assessed to county contributions. And that if any such boroughs were exempt from contributing to the county rate, they were not to be assessed save as expressly mentioned; the Act then provided that such boroughs should, for the purposes of the provisions of the Highways and Locomotive Act of 1878, respecting main roads, form part of the county and be assessed to county contributions for the maintenance of such roads, which were to be maintained out of the county fund. And the payment of the costs of assizes and sessions were made a general county purpose, and the costs of prosecutions were made payable out of the county fund.

With respect to quarter sessions boroughs having a population of less than 10,000, the Act provided that there should be transferred to the County Council all the powers of the council and justices of the borough as regards the provision, maintenance, and visitation, etc., of pauper lunatic asylums, and the following powers of the council of the borough, viz., as regards coroners, appointment of analysts, reformatory and industrial schools, fish conservancy, explosives and their powers under the Highways and Locomotive Act, 1878. In no other respect were the powers of the council of the borough under the Municipal Corporation Act of 1882 to be affected.

Lastly, the Act contained further provisions which applied to all boroughs with a population of less than 10,000, whether such boroughs had a Court of Quarter Sessions or not, which were as follows:—All powers, duties, etc., of the council of the borough or of the watch committee in relation to the police force, appointment of analysts, Contagious Diseases and Destructive Insects Acts, gas meters, weights and measures, and explosives shall cease, and the area of the borough for all these purposes shall form part of the county in like manner as if it were not a borough.

Going now to the 62 large incorporated boroughs mentioned in the Schedule which were made county boroughs, the mayor, aldermen and burgesses of each of these boroughs had conferred upon them all the powers, duties, and liabilities of a County Council. Forty-three of these county boroughs were quarter sessions boroughs, and all such powers, duties and liabilities of the quarter sessions or justices as were transferred to the County Council in the case of counties were transferred to the council of the borough All bridges in the borough which were formerly repaired by the county were transferred to the Borough Council, and the costs of repairing the main roads within the borough were made payable out of the borough fund.

Of these county boroughs the remaining 19 were not quarter sessions boroughs. Some of these boroughs therefore contributed to the county expenses, and others did not, and the Act went on to say, that save as provided by the Act, any existing liability to contribute should cease, and an equitable provision for such cessation should be made, so that neither the county nor the county borough should be placed in a worse financial position than formerly.

The Act of 1888 made some very considerable changes as to the sources from which the funds were to come for performing the duties transferred to the County Councils.

It enacted that the local grants out of the Exchequer which had formerly been made to the local authorities should cease, and that in substitution therefor, the councils of counties, and the councils of the 62 county boroughs, should receive the proceeds of the duties on local taxation licences, and a share of the proceeds collected in respect of probate duties. And these sums were to be paid to the county or borough fund, and carried to a separate account to be called the Exchequer Contribution Account, and were to be applied in meeting certain charges in a certain order.

It is not necessary to go into the particulars of the order of these charges on the fund; it is sufficient to say that payments out of the fund were to be made to the guardians in respect of teachers in poor law schools, school fees for pauper children, to local authorities in respect of medical officers and inspectors of nuisances, to guardians in respect of registrars of births and deaths, to the county in respect of pauper lunatics chargeable to the unions, to the boroughs in respect of pauper lunatics chargeable to the borough, to the counties and to councils of boroughs maintaining a separate police force, etc.

It is apparent that such provisions and changes as the foregoing necessitated a readjustment of the accounts between the boroughs and counties, and the Act provided for the making of an equitable adjustment of the financial relations between counties and county boroughs, on the basis that the counties were not to be placed in a worse financial position by reason of the boroughs

being constituted county boroughs, and that a borough was not to be placed in a better financial position by being constituted a county borough than it would have been in if it had remained part of the county.

A considerable number of counties and county boroughs were unable to come to any adjustment, and appeared before the Commissioners, who divided the proceeds of the local taxation licences and the share of the probate duty in the following manner:—They gave to the councils of each county and county borough the amounts of the discontinued grants which they had formerly received, including grants for main roads, a further sum in respect of certain other payments which the Act ordered to be paid out of the local taxation licences and share of probate duty, and divided the residue of the local taxation licences and the share of the probate duty between the councils of the county and the councils of the boroughs, in proportion to the rateable value of the county and the boroughs.

PARISH COUNCILS.

The Local Government Act, 1894 (56, 57 Vict., 73), has introduced some further modifications in the system of local government, which may turn out to be of great importance.

The principal object of the Act was the establishment of Parish Councils in every rural parish which has a population of 300 or upwards, and where the parish is partly within and partly without a rural sanitary district the two parts of the parish are to be deemed to be separate parishes (sect. 1).

The parish councillors are to be elected by the parochial electors, viz., the persons whose names are on

the parliamentary or the local government register of electors, and no person is to be disqualified for being a parish councillor by reason of sex or marriage. They all go out of office on the 1st of April in each year, when parish councillors are again elected. A general meeting of the parish electors is to be held at least once a year, which is to be known as the parish meeting.

The Parish Council is to be a body corporate, with perpetual succession and power to hold land.

The duty of appointing overseers and assistant overseers is now thrown on the Parish Council. All property, except church property, vested in the overseers is now vested in the Parish Council. All powers, duties, and liabilities of the vestry and of the churchwardens, except so far as relates to the church or ecclesiastical charities, and of the overseers as to appeals or objections by them in respect of the valuation list or appeals in respect of the poor or county rate, and with respect to the holding or management of parish property, are to be transferred to the Parish Council.

The Parish Council has the powers set out in the Housing of the Working Classes Act, 1890, of making complaints as to unhealthy dwellings, and certain powers as to allotments which are set out in the Allotments Acts of 1887 and 1890. And the Parish Council may adopt certain Acts—such as the Baths and Wash-houses, the Burial, the Public Improvements, and the Public Libraries Acts; and may acquire land and provide buildings for offices. The Parish Council also has certain powers with respect to recreation grounds or village greens, and may utilise any well, spring, or stream for obtaining water therefrom, and may drain or cleanse any pond, drain, etc., containing sewage or filth, or acquire by agreement any right of way. And

for the purposes of allotments the Parish Council is authorised to hire land, and if that cannot be done by agreement, the County Council may authorise the Parish Council to hire compulsorily.

The limit to the spending power of the Parish Council is a rate of threepence in the pound, which cannot be exceeded without the consent of the parish meeting, and in no case can it exceed a rate of sixpence. The rate is to be raised with the poor rate. Borrowing is permitted with the consent of the County Council and the Local Government Board.

No public right of way can be stopped or deviated in the future without the consent of the Parish Council.

DISTRICT COUNCILS.

This Act further provided, with respect to rural places, that there should be another body to be called a Rural District Council, for every rural sanitary district, which should be composed of councillors elected by the parochial electors, neither sex nor marriage operating as a disqualification, the number of such councillors to be the same as the number of guardians now is. These councillors are to act as the guardians. And to this Rural District Council are transferred all the powers, duties, and liabilities of the rural sanitary authority and of any highway authority within the district. It is the duty of the Rural District Council to protect public rights of way, common rights, encroachments on roadsides, etc. And the expenses, so far as the council is a sanitary authority, are to be met as set out in the Public Health Act of 1875. Highway expenses are to be defrayed as general expenses.

This Act of 1894 has made no changes with respect to urban districts of any very great magnitude. It provides that, in future, urban sanitary authorities shall be known as Urban District Councils, and their districts as urban districts, but the style and title of corporations and councils of boroughs is to remain unaltered. And their duties, in addition to those which they now have, are to look after rights of way, common lands, encroachments, etc. The expenses incurred under this Act are to be defrayed in the case of boroughs out of the borough rate, and in other cases out of the general district rate.

In following the history of the various local authorities in the preceding pages, something has already been said about some of the principal items of their expenditure, and the principal subjects which come within their jurisdiction.

In the following pages a very short summary of the law relating to the police, pauper lunatics, etc., has been attempted.

POLICE.

Prior to 1833, watchmen appear to have been appointed under the statute of Winchester, and by the justices, and in most parishes the parish constable seems to have been the only person charged with the preservation of the peace. By an Act in 1831 the justices were authorised to appoint special constables when there was reason to apprehend a tumult.

In 1833 the Lighting and Watching Act (34 Will. IV. c. 90) was passed. It was optional with the ratepayers whether this Act should be adopted in their parish or not. If they adopted it they appointed an inspector to carry it into effect, and determined the

sum of money which he might call for for that purpose, and the inspector issued orders to the overseers to raise that sum, which they raised in the same manner as the poor rate. Buildings were to be assessed to three times the amount at which lands were assessed. Watchmen were appointed by the inspector to act as constables. The Act contained provisions as to street lighting, but so far as the appointment of constables is concerned, it has long ceased to have any effect, and in urban districts and in places made subject to the Public Health Act of 1875, by order of the Local Government Board, this Act is superseded by the Public Health Act.

Under Section 76 of the Municipal Corporations Act, 1835, the council of any incorporated borough was authorised to appoint a watch committee, and the watch committee was authorised to appoint constables for preserving the peace, preventing robberies, and apprehending offenders. This section was repealed but practically re-enacted by Section 190 of the Municipal Corporations Act of 1882. The expenses of the constables were defrayed out of the borough rate.

In 1839 an Act was passed for the establishment of county and district constables (2, 3 Vict., 93). The justices were to appoint a chief constable, who was to appoint the petty constables and to have the general superintendence of them; and for police purposes detached portions of counties were to be considered as being part of the county by which they were surrounded. The costs were thrown on the county rate.

This Act was amended by an Act in 1840 (3, 4 Vict., 88), which enacted that the expenses of the police should no longer be met out of the county rate, but out of a police rate to be assessed by the justices on the full and fair annual value of all property liable to the

county rate. The county justices and the councils of incorporated boroughs were authorised on agreement to consolidate the police establishments of the counties and the boroughs; the force so consolidated was to be governed by the chief constable of the county. And the chief constable was authorised to take over the control of the police in those places which had adopted the Lighting and Watching Act of 1833. The justices might divide the county into police districts. The general expenditure was to be paid by the county, and the salaries and the cost of the clothing of the constables in each district were to be paid out of a police rate on such district.

By 7 & 8 Vict. c. 33, in 1844, provision was made for facilitating the collection of county rates, including police rates, and it enacted that justices should issue precepts to the guardians stating the sum assessed and requiring them to pay the same to the treasurer of the county. Apparently down to this date the rates had been collected by the high constables who were relieved of that duty for the future.

The Town Police Clauses Act of 1847 (10 & 11 Vict. c. 89) was an Act for consolidating in one Act certain provisions usually contained in Acts for regulating the police of towns. It contained a variety of lengthy provisions with respect to street traffic and obstructions, street offences, fire engines, places of public entertainment, hackney carriages and bathing, which are incorporated into the Public Health Act of 1875 so far as it applies to urban districts.

In 1856 an Act was passed to render the police in counties and boroughs more effectual (19, 20 Vict., 69). Apparently the preceding Acts had not been generally adopted or put in force, for this Act recited that wher-

ever a constabulary had not been established the justices should proceed to establish a sufficient police force, and it enacted that there should in future be one general county police establishment, and that the establishments in divisions of counties should be consolidated, and that on the application of the Borough Council to the county justices the Queen might consolidate the police of the borough and county. The Treasury was authorised to pay a sum not exceeding one-fourth of the charge for the pay and clothing of the police in counties and boroughs. (By a subsequent Act, 38, 39 Vict., 48, the limit to one-fourth was removed, and the Treasury paid one-half.) The justices were authorised to provide station houses, etc., and to pay for the same out of the county rate.

By 32, 33 Vict., 47, in 1869, it was enacted that when the office of high constable became vacant, it was not to be again filled, unless the justices were of opinion that it should so be.

By an Act, entitled the Parish Constables Act, 1872 (35 & 36 Vict. c. 92), no parish constable was thereafter to be appointed, excepting where the justices deemed it necessary; but vestries outside boroughs might continue to appoint and pay them, and when so appointed the constables were to be subject to the chief constable.

By the Municipal Corporations Act, 1882, the expenses of the police fall on the borough fund, and the Town Council may order a borough rate to be made and assess the contributions to the borough rate on the total annual value of property rateable to the relief of the poor; and the Council may order the overseers to pay the contributions out of the poor rate.

By the Local Government Act of 1888, it was enacted with respect to the county police, that all the powers,

duties, and liabilities of the justices with respect to the county police should be vested in a standing joint committee of the justices and the County Council, and that the costs should fall on the county fund; and that in the case of those boroughs, whether quarter sessions boroughs or not, which had a population of less than 10,000, all the powers, duties, etc., of the council of the borough, or of the watch committee in relation to the police force, should cease, and for police purposes form part of the county. Thus the police force in these small boroughs comes under the management of the standing joint committee.

Under the Local Government Act of 1888 the grants from the Treasury in respect of the police were discontinued, and in substitution therefor, large sums were paid to the councils of counties and the councils of county boroughs out of the Local Taxation Account.

PAUPER LUNATICS.

For a very long period of time pauper lunatics appear to have been treated as other paupers. It is only comparatively recently that they have been treated as a distinct class requiring special accommodation.

Until the early part of this century there appears to have been little or no legislation with respect to them or to the provision of asylums for them. The first Act of importance was in 1808. This was succeeded by a variety of Acts, and eventually in 1853 the Lunatic Asylums Act was passed (16 & 17 Vict. c. 97), by which it was ordered that the justices of every county and of every borough should provide an asylum if they had not already done so, and should annually elect seven of their number to be a committee of visitors to

superintend the asylums, and it was provided that the expenses incurred in putting the Act into operation—which appear to have been mainly the cost of purchasing sites, providing and repairing asylums—should be met in counties out of the general county rate, and in boroughs out of the borough rate, and the cost of maintaining the lunatic was to be met by the guardians of the union in which the parish of the lunatics was situated. This Act was followed by amending Acts, and all are now repealed by the Act of 1890. But before going to that Act it is desirable to glance at the Local Government Act of 1888 (51, 52 Vict., 48), which contained some important provisions as to pauper lunatics. It enacted with respect to county lunatic asylums that the administrative business of the justices with respect to the provision, enlargement, maintenance, management, and visitation of asylums for pauper lunatics should be transferred to the councils of counties.

And with respect to county boroughs, it provided that where any portion of the cost of building any county lunatic asylum had been contributed by the county borough, the borough council was to contribute the same amount as the borough formerly contributed, and the county was to continue to provide accommodation for the pauper lunatics of the borough. Any new arrangement between the borough and the county was made lawful. Each county borough was made liable for the maintenance of pauper lunatics in the same manner as any other county.

With respect to all boroughs, except those made county boroughs and those with a population of less than 1000, it enacted that all the powers, duties, and liabilities of the Court of Quarter Sessions or justices of

the borough, as they were under the Acts relating to pauper lunatics, should be transferred to the council of the borough, and in the case of boroughs having a population of less than 1000, the powers, etc., both of the borough council and of the justices, as regards the provision, enlargement, maintenance, management, and visitation of and other dealing with asylums for pauper lunatics, were transferred to the county council.

This Act also contained several provisions as to the revenues of lunatic asylums. The Treasury subventions and payments which had hitherto been made to the county authorities, and to a very small extent to the councils of boroughs, were discontinued, and by sect. 24 the county councils were directed to transfer and pay certain sums out of the exchequer contribution account, as follows, viz.:—To transfer to that account of the county fund to which any pauper lunatic chargeable to the county is charged a sum of four shillings a week for each such lunatic; to pay to the guardians of every poor law union in the county a sum of four shillings a week for every pauper lunatic chargeable to the union; and to pay to the council of each borough to which the maintenance of any pauper lunatic is chargeable a sum equal to four shillings a week.

The Lunacy Act of 1890 (53 Vict., 5), which was a codifying Act, repealed nearly all the preceding Acts, and contained, among many others, provisions with respect to the following matters:—Every local authority shall provide and maintain an asylum for pauper lunatics, and may provide accommodation for idiots and private patients. The local authorities were defined as the councils of counties and county boroughs and the councils of 30 other boroughs mentioned in the Schedule to the Act. Visiting committees were to be

appointed, and pauper lunatics were to be deemed chargeable to the union from which they came to the asylum; and the justices were authorised to make an order on the guardians of the Union for the payment to the treasurer of the asylum of the reasonable charges of the lodging, maintenance, medicine, clothing, and care of the lunatic. The expenses to be contributed by the local authority were to be paid by the treasurer of the local authority out of the county or burgh fund to the treasurer of the asylum.

ELEMENTARY SCHOOLS.

The principal Act was the one of 1870 (33, 34 Vict., 75). Its provisions, so far as related to finances, were the following:—17. Every child attending a board school shall pay such weekly fee as may be prescribed by the School Board with the consent of the Education Department, but the School Board was authorised to remit the fees.

The School Boards were authorised to provide schools by building or otherwise, and to improve and enlarge existing schools and to purchase and lease land; and all costs relating to the purchase of land were to be a charge upon the school fund of the district.

The expenses of the School Boards were to be paid out of a fund called the school fund, to which fund the whole of the receipts of the School Board were to be carried; and any deficiency in the school fund was to be made by the rating authority out of the local rate.

No parliamentary grant was to be made after 1871 to any elementary school which was not a public elementary school within the meaning of the Act; and, where made, was not to be made in respect of instruc-

tion in religious subjects, and was not to exceed the income of the school derived from voluntary contributions, school fees, and from any sources other than the parliamentary grant.

This Act was amended by the Elementary Education Act of 1873 (36, 37 Vict., 86), which by sect. 10 repealed a former provision as to the expenses of the School Board with respect to providing or enlarging a schoolhouse, in paying off any debt or in fitting up schoolhouses, and enacted that the school board might borrow money on the security of the school fund and local rate, and spread the repayment over fifty years.

The Elementary Education Act of 1876 (39, 40 Vict., 79) enacted, with respect to the parliamentary grant, that where a child under eleven obtains a certificate of proficiency in reading, writing, and elementary arithmetic and of previous due attendance, the school fees of such child for the three years following such certificate may be paid by the Education Department out of moneys provided by Parliament; and that the parliamentary grant might exceed the income of the school from other sources, provided it does not exceed 17s. 6d. per child in average attendance; and contained provisions as to the education of children who were in some employment, which were to be enforced by the School Boards in their districts and by school attendance committees in other districts, and prohibited such employment except in certain cases.

This Act was in turn amended by the Elementary Education Act of 1891 (54, 55 Vict., 56), which came into force in September 1891, and provided that there should be paid by Parliament a grant called a 'fee grant,' in aid of the cost of elementary education, at the rate of ten shillings a year for each child over three and

under fifteen in average attendance at the school, and that no fee should be charged for children between those ages in schools receiving the fee grant where the average rate of fees had not exceeded ten shillings, and that in schools where it had exceeded that amount fees should in future be charged only to the extent of the excess. And in order to meet the demand for further accommodation for what was practically the free education of children between three and fifteen, it enacted that this further accommodation should be provided.

By the voluntary Schools Act, 1897, the limit of 17s. 6d. per child in average attendance imposed by the Act of 1876, referred to above, was removed. And also a grant called the aid grant was made to voluntary schools to the amount of not exceeding five shillings per scholar in average attendance. The Education Department was authorised to determine what shares should be given out of this grant to town schools and country schools respectively. This rate was subsequently fixed for the time being for town schools 5s. 9d. per scholar, and for country schools 3s. 3d. per scholar. Town schools are defined by the same minute as being any schools situated within the district of the County Council of London, or within a county borough, municipal borough, or other urban district. This Act also exempts voluntary school buildings from liability to pay local rates.

The Elementary Education Act of 1897 provides for a larger grant being made to School Boards than was allowed by the Act of 1870, the limit being raised from 7s. 6d. to 16s. 6d. per child.

REFORMATORY SCHOOLS.

The first Act appears to have been 1, 2 Vict., 82, entitled, "An Act for establishing a prison for young offenders." Several Acts were passed subsequently. They appear all to have been repealed by sect. 37 of the Act of 1866, so far as they related to such schools; and in that Act most of their provisions were re-enacted.

The Reformatory Schools Act of 1866 (29, 30 Vict., 117) was a consolidating Act. It enacted that on the application of the managers of any reformatory school the Secretary of State might direct one of the inspectors of prisons to examine the school, and, if satisfied with the report, might certify that the school is fitted for the reception of youthful offenders.

Any child under sixteen years of age who is convicted on indictment, or in a summary manner of an offence punishable with penal servitude or imprisonment, and is sentenced to be imprisoned for a term of ten days or longer, may be ordered to be sent at the expiration of his term of imprisonment to a certified reformatory school for a term of not less than two or more than five years.

The Treasury may contribute to the expenses of such schools, and parents may be ordered to contribute. Prison authorities may contribute such sums as they think fit towards the establishment and maintenance of the schools. And the expenses incurred by the prison authority in carrying out the Act shall be deemed to be expenses under the Prisons Act of 1865, and be defrayed accordingly—that is to say, out of the county or borough rate (sect. 8 of the Act of 1865).

INDUSTRIAL SCHOOLS.

The Act of 1861, which apparently was the first one relating to this subject, was repealed by the Act of 1866.

The Industrial Schools Act of 1866 (29, 30 Vict., 118) was an Act to consolidate the Acts relating to this subject. It defined an industrial school as one in which an industrial training is provided, and in which children are lodged, clothed, and fed as well as taught.

On the application of the managers of an industrial school, the Secretary of State may direct the inspector of industrial schools to examine the school, and if satisfied with the report, may certify that the school is fit for the reception of children.

The justices or magistrates were authorised to send to an industrial school children under the age of fourteen years found begging or wandering without any home, or destitute, or under twelve years of age if charged with an offence, or if under fourteen and refractory.

Prison authorities (viz., the justices in quarter sessions and the town councils of incorporated boroughs) may contribute such sums as they think fit, and the Treasury may contribute to the expenses of such schools; the guardians, or the parochial board may, with the consent of the Poor Law Board, contribute such sums as they may think fit, and parents may be ordered to contribute to the maintenance of their children.

The expenses incurred by a prison authority in carrying into effect the provisions of this Act shall be deemed to be expenses under the Prisons Act of 1865,

and be defrayed accordingly—that is to say, out of the county or borough rate (sect. 8 of 1865).

Under the Elementary Education Act of 1876 (39, 40 Vict., 79, 16), the Secretary of State may certify that a school shall be a certified day industrial school, and any child who may be sent, pursuant to the Industrial Schools Act, 1866, to a certified industrial school, may be sent to a certified day industrial school. And out of the sums provided by Parliament a sum of one shilling a week may be contributed towards the expenses.

Under the Industrial Schools Acts Amendment Act, 1880 (43, 44 Vict., 15), the justices may order children living in houses frequented by prostitutes to be sent to an industrial school.

The administrative business of the justices with respect to the establishment and maintenance of and contributions to reformatory and industrial schools was transferred to the County Councils by the Local Government Act of 1888 (sect. 3, ss. 7).

These Acts relating to reformatory and industrial schools have since been amended by 35, 36 Vict., 21, and 37, 38 Vict., 47.

ALLOTMENTS.

The Act relating to allotments was entitled, "An Act to facilitate the provision of allotments for the labouring classes" (50, 51 Vict., 48), and was passed in 1887. It enacted that where a representation was made to the sanitary authority of any urban or rural district, that it was desirable to take proceedings under the Act, and the sanitary authority was satisfied that there was a demand for allotments, and that they could not be

obtained by arrangement, the sanitary authority might purchase or hire land suitable for allotments, but at such cost only as not to exceed the rents of the allotments. The Act contained clauses for compulsory purchase, and for the introduction of Bills into Parliament, and for compensation, and for the election of allotment managers, and provided that the expenses of an urban sanitary authority should be part of their general expenses under the Public Health Act, 1876, and those of a rural sanitary authority should be special expenses under the same Act.

This Act proved to be practically useless for effecting the purpose for which it was intended, as may best be seen by the local taxation accounts, in which in the year 1889–90 the councils of 274 municipal boroughs acting as urban sanitary authorities are shown to have received as income in respect of allotments a sum of £685, and to have spent £988. The remaining urban authorities received £772 and spent £890. And rural sanitary authorities received £1280 and spent £1512.

Certain powers were given to Parish and District Councils as regards acquiring land for allotments. These powers have been used to a larger extent than have those possessed by urban authorities. In 1896–97 Town Councils and Urban District Councils received in respect of allotments £9724 as rent, and spent £21,227, while Parish Councils and Rural District Councils received £27,111 as rent, and spent £28,613. Under this head both sets of bodies spent an additional sum raised by loans for this purpose.

ARTIZANS' DWELLINGS.

The first Act to encourage the establishment of lodging-houses for the labouring classes was passed in 1851 (14, 15 Vict., 34). The greater portion of this Act was repealed by the Act of 1885. It enacted that for the purposes of this Act the councils of incorporated boroughs and local boards might appropriate any lands vested in them, and on them erect buildings suitable for lodgings for the labouring classes, or purchase or lease existing lodging-houses, such houses to be under the management of the council, who might make such charges as they thought fit. This Act threw the expenses on the poor rate.

The next Act (29 Vict., 28) relating to this subject was passed in 1866, for the purpose of enabling the Public Works Loan Commissioners to make advances towards the erection of dwellings for the labouring classes.

In 1868 an Act to provide better dwellings for artizans and labourers (31, 32 Vict., 130) was passed. It did little more than provide for the issue of orders by the local authority for the demolition or alteration of premises in a condition dangerous to health or unfit for habitation, and empowered the local authority to defray the expenses out of a special local rate.

In 1875 an Act for facilitating the improvement of the dwellings of the working classes in large towns was passed (38, 39 Vict., 36). The principal object of this Act was to enable the local authority in urban sanitary districts to declare that insanitary houses, closes, alleys, etc., should be treated as 'unhealthy areas,' and to carry out an 'improvement scheme' in respect of such area,

providing accommodation for the displaced occupiers, which scheme was to be submitted to the Local Government Board for confirmation; with power to take land compulsorily, paying compensation therefor, to be estimated at the fair market value as estimated at the time of the valuation and of the several interests in such lands, due regard being had to the nature and then condition of the property and the probable duration of the buildings in their then existing state, and to the state of repair thereof, without any additional allowance in respect of compulsory purchase; the expenses to be met by borrowing and out of the local rates levied under the Public Health Acts. The clauses in this Act relating to compensation were amended by 42, 43 Vict., 63, 1879, which enacted that in estimating the compensation, if the arbitrator found that the houses were a nuisance by reason of their being in an unhealthy state or overcrowded, he should determine what the value would have been if no nuisance had existed, and from this value he was to deduct the cost of abating the nuisance, the balance to be the compensation.

The Act of 1879 (42, 43 Vict., 64) contained other provisions, chiefly amending the Act of 1868 in comparatively unimportant details.

In 1882 an Act (45, 46 Vict., 54) was passed for amending the Artizans' and Labourers' Dwellings Acts, which enacted that the amount of compensation should not be increased by reason of any improvements made by the owners or others on the property after the date of the advertisement of the improvement scheme, and giving power to the local authority to purchase and demolish houses, close in alleys, etc., and in the event of the demolition having the effect of adding to the value of adjoining buildings, to charge those buildings with

the payment of the compensation to the extent of the added value.

In 1885 an Act (48, 49 Vict., 72) known as the Housing of the Working Classes Act was passed for the purpose of amending the Labouring Classes Lodging Houses Acts, 1851 to 1867, and repealing many of the sections contained in those Acts, and for amending the Artizans' and Labourers' Dwellings Improvement Acts. It enacted that the Labouring Classes Lodging Houses Acts, 1851 to 1857, might be adopted by the urban sanitary authority of any urban sanitary district, and by the rural sanitary authority of any rural sanitary district by permission of the Local Government Board. And that the expenses of carrying them into execution should in the case of urban authorities be general expenses under the Public Health Act of 1875, and in the case of rural authorities, special expenses under the same Act. The authorities were invested with the same powers for the purchase of land for the purposes of this Act as they had for other purposes under the Public Health Act, 1875.

By sect. 10 of the Public Health Act of 1875, the urban sanitary authority was made the authority under the Artizans' and Labourers' Dwellings Act. As to incorporated boroughs, see sect. 111 of the Act of 1882.

By the Housing of the Working Classes Act, 1890, provisions were made giving the various local authorities power to pull down houses on unhealthy areas, to remove insanitary houses, and to erect and hold suitable dwellings for the accommodation of the working classes. This Act gives very wide powers to the various local bodies for the above purposes; but its provisions, which mainly relate to procedure and compensation, are too numerous to be inserted here.

This Act has been largely adopted, for whereas in 1889–90 the only returns in respect of artizans' dwellings in the local taxation accounts were the receipts of 274 incorporated boroughs, acting as urban sanitary authorities, amounting to £59,454, and the expenditure £9753, we have now for the year 1896–97 an expenditure from loans of £33,076, receipts from sales £23,619 and from rents £90,848, and an expenditure for the year from loans of £90,271, together with a loan capital expended under this head of £4,609,041.

DISEASES OF ANIMALS.

The Diseases of Animals Act, 1894 (57 & 58 Vict. c. 57), repeals all the former Acts which related to the contagious diseases of animals, and transfers to the Board of Agriculture, which was created by an Act passed in 1889, the powers in such matters which were formerly exercised by the Privy Council.

The local authorities who are charged with enforcing the provisions of this Act are, in boroughs having a population of over 10,000, the Borough Council; and in all other places the County Council.

The Act contains provisions as to separating diseased animals, and giving notice to the police of the fact that disease is present, and for dealing with cattle plague generally. The Board of Agriculture is authorised to declare any area as an infected area, and thereafter no animal can be moved into or out of the area except by permission of the Board of Agriculture; and the Board is authorised to order the destruction of any animal, paying compensation to the owner at the rates mentioned in the Act.

The Board is also authorised to make orders as to the

movement and isolation of animals, ensuring them a proper supply of water, protecting them from suffering during transit, muzzling dogs, etc.

The Act also contains numerous provisions as to the importation of foreign cattle, erection of wharves, etc., appointment of inspectors, and enacts that the expenses shall be defrayed out of the county rate or the borough rate, as the case may be.

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